

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**







PAGINATION AS IN ORIGINAL COPY

INDEX TO APPENDIX

|  |     |
|--|-----|
| Indictment .....                                 | 1A  |
| Docket Entries 73 Cr. 950 .....                  | 17A |
| Docket Entries 74 Cr. 18 .....                   | 28A |
| Grand Jury Testimony re: Del Cristo .....        | 38A |
| Pre-Trial Proceedings-Infiesta .....             | 39A |
| Infiesta letter to Court .....                   | 41A |
| Rodriguez testimony re: Infiesta; direct .....   | 42A |
| Rodriguez testimony re: Del Cristo; direct ..... | 47A |
| Rodriguez testimony re: Del Cristo; cross .....  | 53A |
| Rodriguez testimony re: Infiesta; cross .....    | 56A |
| Gonzalez testimony re: Infiesta; direct .....    | 61A |
| Gonzalez testimony re: Del Cristo; direct .....  | 64A |
| Gonzalez testimony re: Infiesta; cross .....     | 71A |
| Summation of Infiesta's counsel .....            | 75A |
| Court's Charge .....                             | 85A |



UNITED STATES OF AMERICA  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v -

INDICTMENT

73 Cr.

RAUL ORTEGA-ALVAREZ, a/k/a Raul  
Ortega,  
CIRO RODRIGUEZ-CALANA, a/k/a Ciro A.  
Calana, a/k/a Ciro Rodriguez,  
FRANCISCA ORTEGA-RODRIGUEZ, a/k/a  
Francisca Rodriguez, a/k/a "Paca,"  
LUIS REYES-PADRON, a/k/a Luis Reyes,  
JORGE INFIELTA, a/k/a "nuesso," a/k/a  
"George,"  
JOAQUIN R. PRADA, a/k/a "El Gardego,"  
a/k/a "El Callejo,"  
HECTOR ECHEVARRIA, a/k/a Liborio  
Morales, a/k/a Hector Aronld  
Echevarria-Rios,  
CHARLES BUSIGO-CIFRE, a/k/a Charley  
Cifre, a/k/a "Charley Busigo, a/k/a  
Cifire,  
DOMINGO DEL CRISTO,  
ARMANDO GARCIA-ALVAREZ, a/k/a Armando  
Alvarez, a/k/a Armando Garcia, a/k/a  
Andres Alvarez, a/k/a Joaquin  
Gonzalez, a/k/a "El Chino,"  
JOHN DOE, a/k/a "Hugo El Americano,"  
a/k/a Hugo Contero Viera, a/k/a  
Hugo Viera,  
JOSE LUIS SARRIA, a/k/a "Pepito,"  
a/k/a "Pepe," a/k/a Carlos  
Hernandez,  
JOHN DOE, a/k/a "Roberto,"  
JOSE OTERO, a/k/a "Pepe,"  
FRANCISCO ORLANDO PEREZ, a/k/a  
Francisco Perez, a/k/a "Paco,"  
a/k/a "Jose,"  
ORLANDO GIL, a/k/a Joaquin Gil,  
a/k/a Orlando Joaquin Gil, a/k/a  
Joaquin Orlando Gil y Montero,  
a/k/a Luis Francisco Gil,  
CIRILLO FIGUEROA, a/k/a "Lazarito,"  
a/k/a "Lazaro," a/k/a "El  
Guajiro,"  
RIGOBERTO ROSAL-RODRIGUEZ, a/k/a  
"Blanco Serra," a/k/a "Blanquito  
Serra," a/k/a "Rigo," a/k/a  
"Rigo Rosal," a/k/a "Roberto,"  
JOSE RAMIREZ-RAMOS, a/k/a Jose  
Ramirez, a/k/a "Chevas,"  
JOHN DOE, a/k/a Roberto Lopez,  
JOSE ANGEL AGUILERA, a/k/a Jose  
Alberto Aguilera, a/k/a "El Moro,"  
a/k/a "Mauro," a/k/a "Moscoso,"  
CARLOS TAPANES, a/k/a "Charlie,"

Defendants.

COUNT ONE

The Grand Jury charges:

1. From on or about the first day of December, 1969,  
and continuously thereafter up to and including on or about

SH:mel  
d-45

2A  
April 30, 1971, in the Southern District of New York and  
elsewhere,

RAUL ORTEGA-ALVAREZ, a/k/a Raul  
Ortega,  
CIRO RODRIGUEZ-CALANA, a/k/a Ciro A.  
Calana, a/k/a Ciro Rodriguez,  
FRANCISCA ORTEGA-RODRIGUEZ, a/k/a  
Francisca Rodriguez, a/k/a "Paca,"  
LUIS REYES-PADRON, a/k/a Luis Reyes,  
JORGE INPIESTA, a/k/a "Hueso," a/k/a  
"George,"  
JOAQUIN R. PRADA, a/k/a "El Gardego,"  
a/k/a "El Gallego,"  
HECTOR ECHEVARRIA, a/k/a Liborio  
Morales, a/k/a Hector Arnold  
Echevarria-Rios,  
CHARLES BUSIGO-CIFRE, a/k/a Charley  
Cifre, a/k/a Charley Busigo, a/k/a  
Cifire,  
DOMINGO DEL CRISTO,  
ARMANDO GARCIA-ALVAREZ, a/k/a Armando  
Alvarez, a/k/a Armando Garcia, a/k/a  
Andres Alvarez, a/k/a Joaquin  
Gonzalez, a/k/a "El Chino,"  
JOHN DOE, a/k/a "Hugo El Americano,"  
a/k/a Hugo Contero Viera, a/k/a  
Hugo Viera,  
JOSE LUIS SARRIA, a/k/a "Pepito,"  
a/k/a "Pepe," a/k/a Carlos  
Hernandez,  
JOHN DOE, a/k/a "Roberto,"  
JOSE OTERO, a/k/a "Pepe,"  
FRANCISCO ORLANDO PEREZ, a/k/a  
Francisco Perez, a/k/a "Taco,"  
a/k/a "Jose,"  
ORLANDO GIL, a/k/a Joaquin Gil,  
a/k/a Orlando Joaquin Gil, a/k/a  
Joaquin Orlando Gil y Montero,  
a/k/a Luis Francisco Gil,  
CIRILLO FIGUEROA, a/k/a "Lazarito,"  
a/k/a "Lazaro," a/k/a "El  
Guajiro,"  
RIGOBERTO ROSAL-RODRIGUEZ, a/k/a  
"Blanco Serra," a/k/a "Blanquito  
Serra," a/k/a "Rigo," a/k/a  
"Rigo Rosal," a/k/a "Roberto,"  
JOSE RAMIREZ-RAMOS, a/k/a Jose  
Ramirez, a/k/a "Chevas,"  
JOHN DOE, a/k/a Roberto Lopez,  
JOSE ANGEL AGUILERA, a/k/a Jose  
Alberto Aguilera, a/k/a "El Moro,"  
a/k/a "Mauro," a/k/a "Moscoso,"  
CARLOS TAPANES, a/k/a "Charlie,"

the defendants, and Ramiro Gonzalez and Miguel Rodriguez,  
named herein as co-conspirators but not as defendants, and  
others to the Grand Jury known and unknown, unlawfully wilfully,  
intentionally and knowingly combined, conspired, confederated  
and agreed together and with each other to violate Sections 173  
and 174 of Title 21, United States Code and Sections 4701, 4703,  
4704(a), 4771(a) and 7237(a) of Title 26, United States Code.

2. It was part of said conspiracy that the said  
defendants and co-conspirators unlawfully, wilfully and knowingly

would import and bring into the United States large quantities of narcotic drugs, the exact amount and nature thereof being to the Grand Jury unknown in violation of Sections 173 and 174 of Title 21, United States Code.

3. It was further part of said conspiracy that the said defendants and co-conspirators, unlawfully, wilfully and knowingly would receive, conceal, possess, buy, sell and facilitate the transportation, concealment and sale of large quantities of narcotic drugs, the exact amount and nature thereof being to the Grand Jury unknown, after the said narcotic drugs had been imported and brought into the United States contrary to law, knowing that the said narcotic drugs had been imported and brought into the United States contrary to law in violation of Section 173 and 174 of Title 21, United States Code.

4. It was further part of the said conspiracy that the said defendants and co-conspirators unlawfully, wilfully and knowingly would purchase, sell, dispense and distribute a quantity of narcotic drugs, the exact amount and nature thereof being to the Grand Jury unknown, in that the said narcotic drugs would not be in the original stamped package or from the original stamped package, that is to say, that there would not be affixed to the container in and from which the said defendants would purchase, sell, dispense and distribute the narcotic drugs as aforesaid any United States Internal Revenue Stamps as required by Section 4703 of Title 26, United States Code, in violation of Sections 4701, 4703, 4704(a), and 7237(a) of Title 26, United States Code.

#### OVERT ACTS

In pursuance of the said conspiracy and to effect the objects thereof, the following overt acts were committed in the Southern District of New York and elsewhere:

1. In or about March, 1970, the defendant RAUL ORTEGA-ALVAREZ met with co-conspirator Ramiro Gonzalez in Miami, Florida.

2. In or about March, 1970, the defendant RAUL ORTEGA-ALVAREZ and co-conspirator Ramiro Gonzalez flew from Miami, Florida to Newark, New Jersey.



3. On or about March 12, 1970, the defendant RAUL ORTEGA-ALVAREZ registered and stayed in the Saxony Motel, 330 Atlantic Avenue, Elizabeth, New Jersey.

4. On or about March 12, 1970, the defendant RAUL ORTEGA-ALVAREZ and co-conspirator Ramiro Gonzalez met with the defendants CIRO RODRIGUEZ-CALANA and FRANCISCA ORTEGA-RODRIGUEZ at 38 Rankin Street, Elizabeth, New Jersey.

5. On or about March 12, 1970, the defendants JORGE INPIESTA and LUIS REYES-PADRON received approximately one kilogram of heroin from the defendant RAUL ORTEGA-ALVAREZ in an apartment at 666 W. 162nd Street, New York, New York.

6. On or about March 13, 1970, defendant JOAQUIN R. PRADA and co-conspirators Ramiro Gonzalez and Miguel Rodriguez delivered approximately one kilogram of heroin at the C.B.C. Gas Station, 2120 Amsterdam Avenue, New York, New York.

7. On or about March 13, 1970, the defendants RAUL ORTEGA-ALVAREZ, JORGE INPIESTA and LUIS REYES-PADRON met in an apartment at 666 W. 162nd Street, New York, New York.

8. On or about March 16, 1970, the defendant RAUL ORTEGA-ALVAREZ entered Luigi's Restaurant & Bar, 4199 Broadway, New York, New York.

9. On or about March 31, 1970, the defendant CARLOS TAPANES delivered approximately one kilogram of heroin in the parking lot of the Hicksville Diner, Old Country Road and South Oyster Bay Road, Hicksville, Long Island.

10. In or about March, 1970, the defendant RAUL ORTEGA-ALVAREZ delivered approximately one kilogram of heroin to the defendant LUIS REYES-PADRON at 38 Rankin Street, Elizabeth, New Jersey.

11. In or about March or April, 1970, the defendant RAUL ORTEGA-ALVAREZ delivered approximately two kilograms of heroin to the defendants JORGE INPIESTA and LUIS REYES-PADRON in an apartment at 666 W. 162nd Street, New York, New York.



12. In or about March, 1970, co-conspirators Ramiro Gonzalez and Miguel Rodriguez met with the defendants FRANCISCO ORLANDO PEREZ and ORLANDO GIL.

13. On or about March 24, 1970, the defendants FRANCISCO ORLANDO PEREZ and ORLANDO GIL met at 572 W. 173rd Street, New York, New York.

14. On or about March 24, 1970 the defendant FRANCISCO ORLANDO PEREZ went to the Blue Mirror Bar, 3347 Broadway, New York, New York.

15. In or about March or April, 1970, the defendant HECTOR ECHEVARRIA received approximately 1/2 kilogram of heroin at 380 Audubon Avenue, New York, New York.

16. In or about March or April, 1970, co-conspirators Ramiro Gonzalez and Miguel Rodriguez had a conversation with the defendant CHARLES BUSIGO-CIFRE in the vicinity of the C.B.C. Gas Station, 2120 Amsterdam Avenue, New York, New York.

17. In or about March or April 1970, co-conspirators Ramiro Gonzalez and Miguel Rodriguez delivered approximately 1/2 kilogram of heroin for the defendant CHARLES BUSIGO-CIFRE to John Doe in the vicinity of the C.B.C. Gas Station 2120 Amsterdam Avenue, New York, New York.

18. In or about March or April, 1970, the defendant JOAQUIN R. PRADA received a sum of cash from the defendant CHARLES BUSIGO-CIFRE.

19. In or about March or April, 1970, the defendants CHARLES BUSIGO-CIFRE and HECTOR ECHEVARRIA met at 380 Audubon Avenue, New York, New York..

20. In or about March or April, 1970, co-conspirator Ramiro Gonzalez met with the defendant DOMINGO DEL CRISTO at the Gallo de Maron bar, 3922 Broadway, New York, New York.

21. In or about March or April, 1970, the defendants ARMANDO GARCIA-ALVAREZ and JOHN DOE, a/k/a "Hugo El Americano" met at a bar in the Alamac Hotel, A & B Bar and Lounge, 2056 Broadway, New York, New York.

22. In or about March or April, 1970, the defendant ARMANDO GARCIA-ALVAREZ met with co-conspirator Ramiro Gonzalez in Miami, Florida.

23. In or about March or April, 1970, the defendant JOHN DOE, a/k/a "Hugo El Americano" received approximately two kilograms of heroin in an apartment at 804 W. 180th Street, New York, New York.

24. In or about March or April, 1970, the defendant RAUL ORTEGA-ALVAREZ and co-conspirators Ramiro Gonzalez and Miguel Rodriguez delivered one kilogram of heroin to the defendant ARMANDO GARCIA-ALVAREZ in the vicinity of 158th Street and Broadway, New York, New York.

25. In or about March or April, 1970, the defendants JOSE LUIS SARRIA and JOHN DOE, a/k/a "Roberto" received approximately 1 1/2 kilograms of heroin in Hudson County, New Jersey.

26. In or about March or April, 1970, co-conspirator Ramiro Gonzalez met with the defendant JOSE OTERO at the Gallo de Maron bar, 3922 Broadway, New York, New York.

27. In or about March, of April, 1970, the defendant JOSE OTERO received approximately one kilogram of heroin in the vicinity of the Cuba Bar, 1475 St. Nicholas Avenue, New York, New York.

28. In or about March or April, 1970, co-conspirators Ramiro Gonzalez and Miguel Rodriguez met with the defendant CIRILLO FIGUEROA at the 005 Bar, 3865 Broadway, New York, New York.

29. In or about March or April, 1970, co-conspirator Ramiro Gonzalez delivered approximately one kilogram of heroin for the defendant CIRILLO FIGUEROA to John Doe in an apartment at 804 W. 180th Street, New York, New York.

30. In or about March or April, 1970, co-conspirator Miguel Rodriguez delivered approximately one kilogram of heroin for the defendant CIRILLO FIGUEROA to the defendant RIGOBERTO ROSAL-RODRIGUEZ at the C.B.C. Gas Station, 2120 Amsterdam Avenue, New York, New York.

31. In or about March or April, 1970, the defendant CARLOS TAPANES delivered one kilogram of heroin to the defendant CIRILLO FIGUEROA in the vicinity of 145th Street and Broadway, New York, New York.

32. In or about March or April, 1970, the defendant JOAQUIN R. PRADA handed 1 1/2 kilograms of heroin to the defendant CIRILLO FIGUEROA in an apartment at 790 Riverside Drive, New York, New York.

33. In or about March or April, 1970, the defendant JOSE RAMIREZ-RIOS received approximately 1/2 kilogram of heroin at the El Bayames Restaurant, 1279 St. Nicholas Avenue, New York, New York.

34. In or about March or April, 1970, the defendant JOHN DOE, a/k/a Roberto Lopez, received approximately 1/2 kilogram of heroin at the Gallo de Maron bar, 3924 Broadway, New York, New York.

35. In or about March or April, 1970, the defendant JOSE ANGEL AGUILARA transported 1/2 kilogram of heroin from Elizabeth, New Jersey, to New York, New York.

(Title 21, United States Code, Sections 173 and 174 and Title 26, United States Code, Sections 4701, 4703, 4704(a), 4771(a) and 7237(a).)

COUNT TWO

The Grand Jury further charges:

On or about March 12, 1970, in the Southern District of New York, RAUL ORTEGA-ALVAREZ, a/k/a Raul Ortega, and CIRO RODRIGUEZ-CALANA, a/k/a Ciro A. Calana, a/k/a Ciro Rodriguez, the defendants, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately twenty kilograms of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic



8A

drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT THREE

The Grand Jury further charges:

In or about the month of March, 1970, in the Southern District of New York, RAUL ORTEGA-ALVAREZ, LUIS REYES-PADRON, a/k/a "Luis Reyes", and JORGE INFUESTA, a/k/a "Huesso", a/k/a "George", the defendants, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately one kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT FOUR

The Grand Jury further charges:

In or about the month of March or April, 1970, in the Southern District of New York, HECTOR ECHEVARRIA, a/k/a Liborio Morales, a/k/a Hector Arnold Echevarria-Rios, the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately 1/2 kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary

1:1q  
14

to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT FIVE

The Grand Jury further charges:

In or about the months of March and April, 1970, in the Southern District of New York, CHARLES BUSIGO-CIFRE, a/k/a Charley Cifre, a/k/a Charley Busigo, a/k/a Cifire, the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately one kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT SIX

The Grand Jury further charges:

In or about the months of March and April, 1970, in the Southern District of New York, DOMINGO DEL CRISTO, the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately

one kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT SEVEN

The Grand Jury further charges:

In or about the month of March, 1970, in the Southern District of New York, FRANCISCO ORLANDO PEREZ, a/k/a Francisco Perez, a/k/a "Paco", a/k/a "Jose", and ORLANDO GIL, a/k/a Joaquin Gil, a/k/a Orlando Joaquin Gil, a/k/a Joaquin Orlando Gil y Montero, a/k/a Luis Francisco Gil, the defendants, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately 1/4 kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)



11A  
COUNT EIGHT

The Grand Jury further charges:

In or about the months of March and April, 1970, in the Southern District of New York, ARMANDO GARCIA-ALVAREZ, a/k/a Armando Alvarez, a/k/a Armando Garcia, a/k/a Andres Alvarez, a/k/a Joaquin Gonzalez, a/k/a "El Chino", the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately six kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT NINE

The Grand Jury further charges:

In or about the months of March and April, 1970, in the Southern District of New York, JOHN DOE, a/k/a "Hugo El Americano", a/k/a Hugo Contero Viera, a/k/a Hugo Viera, the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately four kilograms of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director

EN:19  
-14

of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT TEN

The Grand Jury further charges:

In or about the months of March and April, 1970, in the Southern District of New York, JOSE LUIS SARRIA, a/k/a "Pepito", a/k/a "Pepe", the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately two and one-half kilograms of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT ELEVEN

The Grand Jury further charges:

In or about the months of March and April, 1970, in the Southern District of New York, CIRILLO FIGUEROA, a/k/a "Lazarito", a/k/a "Lazaro", a/k/a "El Guajiro", the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately six and one-half kilograms of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had



13A

11:19  
-14

theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT TWELVE

The Grand Jury further charges:

In or about the month of March or April, 1970, in the Southern District of New York, JOAQUIN R. PRADA, a/k/a "El Gallego", a/k/a "El Gardego", the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately one and one-half kilograms of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT THIRTEEN

The Grand Jury further charges:

In or about the month of March or April, 1970, in the Southern District of New York, RIGOBERTO ROSAL-RODRIGUEZ, a/k/a "Blanco Serra", a/k/a "Blanquito Serra",

SN:19  
N-14

14A

a/k/a "Rigo", a/k/a "Rigo Rosal", a/k/a "Roberto", the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately one kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT FOURTEEN

The Grand Jury further charges:

In or about the month of March or April, 1970, in the Southern District of New York, JOSE OTERC, a/k/a "Pepe", the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately one kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

15A  
COUNT FIFTEEN

The Grand Jury further charges:

In or about the month of March or April, 1970, in the Southern District of New York, JOSE RAMIREZ-RAMOS, a/k/a Jose Ramirez, a/k/a "Chevas", the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately 1/2 kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174 and Title 18, United States Code, Section 2.)

COUNT SIXTEEN

The Grand Jury further charges:

In or about the month of March or April, 1970, in the Southern District of New York, JOHN DOE, a/k/a Roberto Lopez, the defendant, unlawfully, wilfully and knowingly did receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a narcotic drug, to wit, approximately 1/2 kilogram of heroin, after the said narcotic drug had been imported and brought into the United States contrary to law, knowing that the said narcotic drug had theretofore been imported and brought into the United States contrary to law in that the importation and bringing of any narcotic drug into the United States, except such amounts of crude opium and coca leaves as the Director of the Bureau of Narcotics and Dangerous Drugs finds to be necessary to provide for medical and



SN:1q  
B-14

legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174  
and Title 18, United States Code, Section 2.)

COUNT SEVENTEEN

The Grand Jury further charges:

In or about the month of March or April, 1970,  
in the Southern District of New York, JOSE ANGEL AGUILERA,  
a/k/a Jose Alberto Aguilera, a/k/a "El Moro", a/k/a "Mauro",  
a/k/a "Moscoso", the defendant, unlawfully, wilfully and  
knowingly did receive, conceal, buy, sell and facilitate  
the transportation, concealment and sale of a narcotic  
drug, to wit, approximately 1/2 kilogram of heroin, after  
the said narcotic drug had been imported and brought into  
the United States contrary to law, knowing that the said  
narcotic drug had theretofore been imported and brought  
into the United States contrary to law in that the importation  
and bringing of any narcotic drug into the United States,  
except such amounts of crude opium and coca leaves as  
the Director of the Bureau of Narcotics and Dangerous  
Drugs finds to be necessary to provide for medical and  
legitimate uses only, is prohibited.

(Title 21, United States Code, Sections 173 and 174  
and Title 18, United States Code, Section 2.)

FOREMAN

PAUL J. CURRAN  
United States Attorney

D. C. Form No. 100  
CRIMINAL DOCKET

JUDGE METZNER

73 CRIM. 950

17A

| TITLE OF CASE                          | ATTORNEYS           |
|--|---------------------|
| THE UNITED STATES                      | For U. S.:          |
| VS.                                    | Shirah Neiman, AUSA |
|  | 264-6419            |
| ( See reverse for names of defendants) |                     |
|  | For Defendant:      |
|  |                     |
|  |                     |
|  |                     |
|  |                     |
|  |                     |
|  |                     |

| ABSTRACT OF COSTS     | AMOUNT | CASH RECEIVED AND DISBURSED |              |          |           |
|-----------------------|--------|-----------------------------|--------------|----------|-----------|
|                       |        | DATE                        | NAME         | RECEIVED | DISBURSED |
| Fine,                 |        |                             | see 73 Cr 18 |          |           |
| Clerk,                |        |                             |              |          |           |
| Marshal,              |        |                             |              |          |           |
| Attorney,             |        |                             |              |          |           |
| Commissioner's Court, |        |                             |              |          |           |
| Witnesses,            |        |                             |              |          |           |
|                       |        |                             |              |          |           |
|                       |        |                             |              |          |           |
|                       |        |                             |              |          |           |
|                       |        |                             |              |          |           |

| DATE     | PROCEEDINGS  |
|----------|--|
|          | 21:173,174;26:4701,4703,4704(a),4771(a)4237(a). Conspiracy to import and receive and buy narcotics in violation of Narcotic Laws of the U.S.(Ct.1) |
|          | 21:173,174 Receipt and purchase of Schedule I.(Heroin)(Cts.2-17)   |
| 10-73    | Filed indictment and indictment ordered sealed. Griesa,J.  |
| 10-18-73 | Indictment opened by Judge MacMahon on motion of the Government.<br>MacMahon,J.  |
| 10-10-73 | ALL DEFENDANTS - Bench warrants issued   |
|          |  |
|          |  |
|          |  |
|          |  |



18A

73Cr950

#3

Metzner, J.

73Cr950

| DATE       | PROCEEDINGS  |
|------------|--|
| 10-23-73   | Defts. Calana (Bail \$50,000 -10% cash)(Jail)<br>F. Rodriguez (Bail \$50,000.-10% cash)(Jail)<br>Prada (Jail on writ continued.)<br>Echevaria (Jail on writ continued.)<br>Cifre (Bail \$50,000.P.R.B.(Jail)<br>Del Cristo (Bail \$50,000. (Jail)<br>Otero (Jail on writ continued.)<br>Gil (Bail \$5,000. P.R.B. Bail continued)<br>Figueroa (Jail on writ continued)<br>Tapanes. (Jail on writ continued)<br>All above defendants plead not guilty. Motions ret. in 10 days.<br>Case assigned to Judge Metzner for all proposes. MacMahon,J. |
| Oct-23-73  | Francisca Ortega-Rodriguez- deft. pleads not guilty - bail fixed in the sum of \$10,000.00 sec. by \$1,000.00 -- MacMahon, J.  |
| Oct-23-73  | Francisca Ortega-Rodriguez (true name Francisca Ortega-Calana)-- Filed appearance bond in the sum of \$10,000. sec. by \$1,000.00 (receipt #28449) - Clerk.  |
| Oct-17-73  | Rigoberto Rosal Rodriguez- Filed Governments affdvt. for a writ of H/C. - writ issued - ret. 10-24-73  |
| Oct.30-73  | DEL CRISTO--application for bail reduction denied. Metzner, J.   |
| Nov.2-73   | ORTEGA-ALVAREZ<br>INFIESTA<br>GARCIA-ALVAREZ<br>ROSAL-RODRIGUEZ<br>AGUILERA --(all attys. present)--plead not guilty through their interpreters Jose Melendez and Margaret Sapper. Metzner,J.  |
| Nov.2-73   | ORTEGA-ALVAREZ--bail fixed by magistrate is contd. Metzner,J.  |
| Nov.2-73   | GARCIA-ALVAREZ-- bail fixed at \$7,500 surety bond. Metzner, J.  |
| Nov.2-73   | AGUILERA-- \$5,000 PRB Metzner, J.   |
| Nov.2-73   | ROSAL-RODRIGUEZ--Bail \$10,000 Metzner, J.   |
| G Nov.2-73 | GIL--Bail \$5,000 PRB Metzner,J.   |
|            | All motions by Dec. 15,1973.Trial to be held on Feb. 20,1973. Metzner,J.   |
| Nov.5-73   | DEL CRISTO--(atty. present)--application for reduction of bail is granted to the extent of 10%cash(\$1,200).Mr.O'Rourke is removed as the atty. for Del Cristo and William L. Richman is new counsel. Metzner, J.  |
| Nov.5-73   | INFIESTA--(with his atty)--reduction of bail is granted to the extent of \$10,000--20%cash. Metzner,J.   |
| Nov.5-73   | Francis (12/1/73)<br>CALLANA--(atty. present)-- exonerated from bail.Deft. ROR. Deft. to report on Mondays,Wednesdays and Fridays at 10am. to the US Marshal's office in Newark, N.J. Metzner, J.  |

(over)

3Cr950

#3

Metzner, J.

73Cr950

19A

DATE

PROCEEDINGS

10-23-73 Defts. Calana (Bail \$50,000 -10% cash)(Jail)  
 F. Rodriguez (Bail \$50,000.-10% cash)(Jail)  
 Prada (Jail on writ continued.)  
 Echevaria (Jail on writ continued.)  
 Cifre (Bail \$50,000.P.R.B.(Jail)  
 Del Cristo (Bail \$50,000. (Jail)  
 Otero (Jail on writ continued.)  
 Gil (Bail \$5,000. P.R.B. Bail continued)  
 Figueroa (Jail on writ continued)  
 Tapanes. (Jail on writ continued)  
 All above defendants plead not guilty. Motions ret. in 10 days.  
 Case assigned to Judge Metzner for all purposes. MacMahon, J.

Oct-23-73 Francisca Ortega-Rodriguez- deft. pleads not guilty - bail fixed in the sum of  
 \$10,000.00 sec. by \$1,000.00 -- MacMahon, J.

Oct-23-73 Francisca Ortega-Rodriguez (true name Francisca Ortega-Calana)-- Filed appearance  
 bond in the sum of \$10,000. sec. by \$1,000.00 (receipt #28442) - Clerk.

Oct-17-73 Rigoberto Rosal Rodriguez- Filed Governments affdvt. for a writ of H/C. - writ  
 issued - ret. 10-24-73

Oct.30-73 DEL CRISTO--application for bail reduction denied. Metzner, J.

Nov.2-73 ORTEGA-ALVAREZ  
 INFIESTA  
 GARCIA-ALVAREZ  
 ROSAL-RODRIGUEZ  
 AGUILERA --(all attys. present)--plead not guilty through  
 their interpreters Jose Melendez and Margaret Sapper. Metzner, J.

Nov.2-73 ORTEGA-ALVAREZ--bail fixed by magistrate is contd. Metzner, J.

Nov.2-73 GARCIA-ALVAREZ-- bail fixed at \$7,500 surety bond. Metzner, J.

Nov.2-73 AGUILERA-- \$5,000 PRB Metzner, J.

Nov.2-73 ROSAL-RODRIGUEZ--Bail \$10,000 Metzner, J.

G Nov.2-73 GIL--Bail \$5,000 PRB Metzner, J.

All motions by Dec. 15, 1973. Trial to be held on Feb. 20, 1973. Metzner, J.

Nov.5-73 DEL CRISTO--(atty. present)--application for reduction of bail is  
 granted to the extent of 10% cash (\$1,200). Mr. O'Rourke is removed  
 as the atty. for Del Cristo and William L. Richman is new  
 counsel. Metzner, J.

Nov.5-73 INFIESTA--(with his atty)--reduction of bail is granted to the extent  
 of \$10,000--20% cash. Metzner, J.

Nov.5-73 CALLANA--(atty. present)-- exonerated from bail. Deft. ROR. Deft. to  
 report on Mondays, Wednesdays and Fridays at 10am. to the  
 US Marshal's office in Newark, N.J. Metzner, J.

(over)



70A

p. 4

| DATE      | PROCEEDINGS   |
|-----------|---|
| Nov 5-73  | CIRO CALLANA(atty.present)--bail set in amt. of \$50,000 PRB \$3,000 cash. Metzner, J.  |
| Nov. 2-73 | ROSAL RODRIGUEZ --Filed notice of appearance by Alan C. Antonucci<br>8129 Kennedy Blvd.<br>North Bergen, N.J. 07047<br>201-854-1600   |
| Nov 2-73  | INFIESTA--filed notice of appearance by Emil M. Sanchez<br>11 Park Place<br>N.Y., NY. WO-4-3850   |
| v. 2-73   | GIL--Filed notice of appearance by Jesse Berman<br>351 Broadway<br>NYC 10013 431-4600   |
| . 2-73    | DELGADO ALVAREZ--Filed notice of appearance by Barry Slupiro<br>903 Gerard Ave.<br>Bronx, NY CY-3-4103  |
| . 7-73    | GARCIA-ALVAREZ--received and filed from the Southern District of Florida<br>Miami, Florida magistrates proceedings and \$7,500 surety bond.   |
| . 7-73    | ORTEGA ALVAREZ--recieved and filed from the Southern District of Florida<br>Miami, Florida magistrates proceedings and \$10,000 surety bond included  |
| . 7-73    | AGUILERA--received and filed from the Southern District of Florida, Miami,<br>Florida magistrates proceedings and \$5,000 appearance bond included.   |
| . 7-73    | INFIESTA--filed and received from the District of Arizona record of<br>proceedings.   |
| . 7-73    | RODRIGUEZ-CALANA--Filed ORDER--bail fixed in the amt. of \$3,000 cash. It is to<br>a condition of bail being that deft. report on Monday, Wednesday &<br>Friday mornings between the hours of 8:30am and 10:00am to the office<br>of the US Marshal in Newark, N.J. at the Post Office Bldg., Rm. 423, Newark,<br>N.J. and that deft. surrender his alien card to the US Atty's office;<br>Metzner, J.    |
| v. 7-73   | ORTEGA-RODRIGUEZ -- Filed ORDER--deft. is released upon her own recognizance,<br>a condition of bail being that deft. report on Monday, Wednesday and<br>Fridays mornings between the hours of 8:30am and 10:00am to the office<br>of the US Marshal in New ark, New Jersey at the Post Office Bldg., Rm.<br>423, Newark, N.J. and the deft. surrender her Alien Card to the US Attys<br>ice. Metzner, J. |
| . 5-73    | DEL CRISTO--Filed appearance bond in the amt. of \$12,000 secured by<br>\$1,200 cash(receipt# 28980). Clerk.  |
| . 5-73    | INFIESTA--Filed appearance bond in the amt. of \$20,000 secured by \$2,000<br>cash(receipt # 29035). Clerk.   |
| . 9-73    | ECHEVARRIA--Filed CJA appointment of Edward S. Parzer<br>299 Bdwy NYC Metzner, J.<br>349-6128   |
| ov-15-73  | G. FIGUEROA and J. OTERO- Filed affirmation and notice of motion for discovery, etc.<br>and severance.  |
| ov-15-73  | CIRO RODRIGUEZ-CALANA and FRANCISCA ORTEGA-RODRIGUEZ- Filed affdvt. and notice of motion<br>for a bill of particulars. - ret. 12-11-73  |



21

| DATE      | PROCEEDINGS   |
|-----------|---|
| v.14-73   | CIRILLO FIGUEROA }<br>JOSE OTERO } Filed CJA appointment of Joseph I. Stone<br>277 Bdwy, NYC 10007<br>Metzner, J.   |
| Nov.20-73 | ARMANDO DELGADO ALVAREZ (sued as ARMANDO GARCIA ALVAREZ)--Filed defts. affdt. & motion for a bill of particulars ret. on: Nov. 23, 1973.  |
| Nov.19-73 | HUGO VIERA--Filed govt. affdt. of Shirah Neiman for a W/H/C. Writ issued. ret. on: Nov. 21, 1973.   |
| Nov.21-73 | ELIAS HUGO VIERA- (Atty. and Interpreter Ir. Quinones present) - Deft. (John Doe No.11)<br>T/Nme / appeared on writ, can not pay. Bail now written in New Jersey to be re-written to cover this indictment, otherwise defendants bail is \$10,000.00 surety bond secured by 10% cash. Writ satisfied. -- Metzner, J. remanded   |
| Nov.21-73 | Ciro Rodriguez-Galana<br>Francisco Ortega-Rodriguez<br>Charles Luis-Cifre --- appearance bond: \$50,000.00 sec. by \$30,000.00 Surety Bond.<br>Dorlando Del Cristo<br>Orlando Gill --- appearance bond: \$5,000.00 FRB without cash<br>Rogoberto Rosal Rodriguez<br>for above defendants received the following papers and filed: docket entry sheets indictment warrant, disposition sheets, appearance bonds for Cifre and Gill. (papers received from Magistrate Raby) |
| Nov.30-73 | ROSALES-RODRIGUEZ--Filed notice from the U.S. D. C., District of Puerto Rico that a hearing will be held to the said deft. on Nov. 30, 1973 on defts. motion for reduction of bail.   |
| Nov.21-73 | D. DEL CRISTO--Filed notice of remand dated Nov. 5, 1973.   |
| Nov.21-73 | JOANNE BALAY--Filed notice of remand dated Nov. 5, 1973.  |
| Dec.4-73  | JOAQUIN R. PRADA--Filed Motion to Dismiss Indictment  |
| Dec.4-73  | JOAQUIN R. PRADA--Filed Memorandum of Law   |
| Nov.30-73 | ELIAS HUGO VIERA--Filed Appearance Bond in the amount of \$10,000.--\$1,000 Cash w/ the Clerk, SDNY-Receipt #29740 as security.   |
| Nov.30-73 | Filed Filing papers from Magistrate Raby, --Docket Entry Sheet, Appearance Bond For Ciro Rodriguez Galana in the amount of \$3,000.--Posted w/U.S.D.C.Rec.#28991  |
| Dec.4-73  | RIGOBERTO ROSAL RODRIGUEZ--Filed Motion to Transferring the bail hearings relating to Ind. in Puerto Rico to this court, returnable 12/15/73 at 9:30 A.M.   |
| Dec.4-73  | RODRIGUEZ - Filed Motion for Discovery returnable 12/15/73 at 9:30 A.M.   |
| Dec.4-73  | RODRIGUEZ - Filed Motion for Bill of Particulars returnable 12/15/73 - 9:30 A.M.  |
| Dec.4-73  | ELIAS HUGO VIERA- Filed Consent Order to extend Bail Limits to the Eastern District of New York and the District of New Jersey -- Metzner, J.   |
| Dec.6-73  | JORGE INFUESTA--Filed for Deft. Notice of Motion seeking Relief and affirmation returnable 12/5/73 at 10:00 A.M.  |
| Dec.7-73  | CARLOS TAPANES--Bail application on behalf of Deft. granted. Interpreter (Jose Melendez). Bail conditions are now Personal Recognizance Bond in the amount of \$5,000.00 to be co-signed by the defendant's wife. The defendant is to surrender his U.S. Government identity card to the U.S.A. The defendant having been produced on a writ. Writ having been adjourned to Dec. 10, 1973-Metzner, J.   |
| Dec.7-73  | RIGOBERTO ROSAL RODRIGUEZ--Filed Notice of Motion to dismiss the Indictment, ret. 12/15/73 at 9:30 A.M.   |
| Dec.7-73  | ARMANDO GARCIA ALVAREZ--Filed Notice of Motion to suppress evidence Illegal Search and Seizure, ret. 12/15/73 at 9:30 A.M.  |
| Dec.7-73  | ARMANDO GARCIA ALVAREZ - Filed Notice of Motion for discovery and inspection ret. 12/15/73 at 9:30 A.M.   |
| Dec.7-73  | ARMANDO GARCIA ALVAREZ-- Filed Notice of Motion for Bill of Particulars ret. 12/15/73   |

22A

| DATE      | PROCEEDINGS   |
|-----------|---|
| Dec.7-73  | ELIAS HUGO VIERA - Filed Remand   |
| Dec.7-73  | TAPANES, Carlos - Filed Personal Recognizance Bond w/o security in the sum of \$5,000. - Clerk.   |
| Dec.11-73 | CIERE - Filed Notice of Motion returnable 12/14/73. As to Count and Overt Acts referred to as 16 thru 19 as indicated.  |
| Dec.13-73 | ECHEVERRIA - Filed Notice of Motion - for an order directing U.S. Atty. to serve Bill of Particulars etc. (served on U.S. Atty. 12/13/73)   |
| Dec.13-73 | Filed Motion for Direct Dismissal of Indictment.  |
| Dec.13-73 | Filed Motion to Suppress all Statements.  |
| Dec.13-73 | Filed for ORLANDO GIL - Pre Trial Motions re: Bill of Particulars etc.  |
| Dec.13-73 | ECHEVERRIA - Filed Motion to appoint Investigator   |
| Dec.13-73 | CARLOS TAPANES - Filed Warrant for Arrest of Deft.  |
| Dec.7-73  | CARLOS TAPANES - Bail fixed at \$5,000 secured by a personal recognizance bond to be co-signed by deft's wife. So ordered - Metzner, J.<br>Deft. is released from U.S. Marshal custody upon posting required bond subject to any details - Clerk.   |
| Dec.14-73 | JOSE ANGEL AGUILERA - Filed Notice of Motion, dismissing the Indictment, to compel Gov to elect between cts. to sever deft. from others etc.  |
| Nov.28-73 | HUGO VIERA - Filed Affidavit of Writ of H/C. - Writ adjourned Nov.21-73 to Nov.23, 1973. Metzner, J.  |
| Nov.28-73 | HUGO VIERA - Filed Affidavit of W/H/C. Writ Satisfied 11/23/73 - Bonni, J.  |
| Dec.14-73 | HECTOR ECHEVERRIA - Filed Motion to an extension of time in which to file Defense Motions.  |
| Dec.14-73 | HECTOR ECHEVERRIA, et al - Filed Motion to Request Bail, Motion for an order Striking Discriminatory Terms from the Indictment, Motion for Severance, Motion to dismiss Indictment, Motion to Inspect Grand Jury Minutes.   |
| Dec.13-73 | RIGOBERTO ROSAL-RODRIGUEZ - The deft. produced in Court on a Writ with his interpreter his attorney and the A.U.S.A. on an application for bail reduction after hearing counsel for both sides. the Court directs that bail is now \$50,000.00 surety bond. The court further directs that this bond is to cover this indictment and the indictment involving this defendant in Puerto Rico. Writ adjourned to Dec.17, 1973 Metzner, J. |
| Dec.18-73 | Filed for Deft. JOAQUIN R. PRADA - Notice of Motion for an order dismissing the Indictment  |
| Dec.19-73 | PAUL ORTEGA ALVAREZ - Filed C.J.A. appointment of Attorney Bernard Rubin, 365 W. 20th New York, N.Y. 10011  |
| Dec.13-73 | CIRILLO FIGUEROA - Filed Affidavit of W/H/C - Writ Satisfied 12/7/73  |
| Dec.13-73 | CARLOS TAPANES - Filed Affidavit of W/H/C - Writ Satisfied 12/7/73  |
| Dec.13-73 | JOSE OTERO - Filed Affidavit of W/H/C - Writ Satisfied 12/7/73  |
| Dec.19-73 | HECTOR ECHEVERRIA - Filed Notice of Motion for an order dismissing the indictment   |
| Dec.21-73 | RIGOBERTO ROSAL RODRIGUEZ - Filed C.J.A. Appointment and authority to pay defense counsel - Darnell J. Blackett, 401 B'way, N.Y.  |
| Dec.21-73 | Filed Government's Affidavit in response and in opposition to Defte's Motions for a Bill of Particulars, Discovery and Inspection, and other relief.  |
| Dec.21-73 | Filed Government's Memorandum of law.   |
| Dec.21-73 | Filed for Deft. DOMINGO DEL CRISTO - Filed Notice of Motion and Affirmation for Bill of particulars   |
| Dec.28-73 | ARMANDO GARCIA-ALVAREZ, a/k/a Armando Alvarez, etc. -- Filed notice of appearance by Harold O.N. Frankel, Esq., 251 B'way, NYC 10007 Tel. CO 7-1122   |
| Jan-2-74  | HECTOR ECHEVERRIA - C.J.A. copy #1 - authorization to pay S.D. Court Reporters for pre-trial conference - mailed to A.O., Washington, D.C. for payment.   |
| Jan-2-74  | HECTOR ECHEVERRIA - Filed C.C.A. copy #5 - authorization to pay S/D. Court Reporters for pre-trial conference.  |
| Jan-8-74  | JOSE ANGEL AGUILERA - Filed defts, affirmation and notice of motion to dismiss or for a hearing and for discovery.  |
| Jan-8-74  | JOSE ANGEL AGUILERA - Filed defts. memorandum in support of above motion.   |



23A  
USA vs. Ortega-Alvarez, etal.

73 CRIM 950

page 7

JUDGE METZNER

| DATE       | PROCEEDINGS  |
|------------|--|
| Jan-9-74   | JOSE ANGEL AGUILERA - Filed notice of appearance by Helena Pichel Solleder, 19 Rector Street, N.Y.C. 10005 -- PI 2-5100  |
| Jan-8-74   | Filed Governments affdvt. for a W/H/C to produce JOHN WESLEY EGAN, as a witness. - Writ issued - ret. on 2-1-74.   |
| Jan. 14-74 | JOSE ANGEL AGUILERA - Filed Supplemental affirmation in support of motion of Aguilera  |
| Nov. 12-73 | GILL ORLANDO - Filed CJA 20 - approving Payment to Robert Mitchell - Metzner, J. (mailed copy 1 of CJA 20 to Adm. Office)  |
| Nov. 12-73 | CARLOS TAPANES - Filed CJA Appointment of Counsel Robert Mitchell 51 Chambers St. N.Y.   |
| Jan. 17-74 | ORTEGA ALVAREZ - Filed CJA 20 Appointment of Counsel Helena P. Solleder 19 Rector St. N.Y. - Metzner, J.   |
| Jan. 17-74 | ELIAS HUGO VIERA - Filed CJA 20 Appointment of Counsel Howard L. Jacobs 401 Bway, N.Y. 10013 - Metzner, J. and Financial Affidavit.  |
| Jan. 18-74 | HECTOR ECHEVERRIA ET AL. - Filed CJA/approving payment to Gerardo Sanchez, interpreter   |
| Jan. 18-74 | HECTOR ECHEVERRIA ET AL. - Filed CJA 21 appointment Gerardo Sanchez Interpreter.   |
| Jan-21-74  | ALL DEFENDANTS - Filed ENDORSEMENT that the Government shall furnish the information required by the Court's memoranda filed today on or before January 28, 1974. So ordered - Metzner, J. (m/a)   |
| Jan-21-74  | JOAQUIN PRADA - Filed memo endorsed on defts. motion filed 12-19-74: Defendants motion is granted in part and denied in part as indicated. Defendants motion to dismiss the indictment will be disposed of in a separate memorandum. So ordered -- Metzner, J. (m/a)   |
| Jan-21-74  | CHARLES BUSIGO CIEFF - Filed memo endorsed on defts. motion filed 12-11-73: Motion for a bill of particulars granted as indicated - the motion for severance is denied. - So ordered. -- Metzner, J. (m/a)   |
| Jan-21-74  | RIGOBERTO ROSAL RODRIGUEZ - Filed memo endorsed on defts. motion for a bill of bill of particulars - motion granted in part and denied in part. So ordered. - Metzner, J. (endorsed on copy of motion) (m/a)   |
| Jan-21-74  | RIGOBERTO ROSAL-RODRIGUEZ - Filed memo endorsed on defts. motion for discovery - motion granted in part and denied in part. Defendants motion to dismiss indictment will be disposed of in a separate memorandum. So ordered. - Metzner, J. (endorsed on copy of defendants motion) (m/a) etc.   |
| Jan-21-74  | JORGE INFESTA - Filed memo endorsed on defendants motion for severance/ filed on 12-6-74: Motion for discovery is granted in part and denied in part. Motion for suppression is granted to the extent consented to by the Government. Motion for a bill of particulars granted in part and denied in part. Motion for severance is denied. So ordered. - Metzner, J. (m/a)   |
| Jan-21-74  | CIRILO FIGUEROA and JOSE OTERO - Filed memo endorsed on defendants motion filed 11-15-73 for discovery, severance, etc.: A Bill of particulars is granted in part and denied in part as indicated. Motion for discovery of all statements made by any defendant is denied except for those statements of deft. Figueroa and Otero themselves. Motion to sever is denied. Motion to dismiss will be disposed of in a separate memorandum. So ordered. - Metzner, J. (m/a) |

| DATE      | PROCEEDINGS   |
|-----------|---|
| Jan-21-74 | DOMINGO DEL CRISTO- Filed memo endorsed on defts. motion filed 12-21-73 for discovery, etc.: Motion for discovery is granted in part and denied in part as indicated. So ordered. -- Metzner, J. (m/n)  |
| Jan-21-74 | ARMANDO GARCIA ALVAREZ- Filed memo endorsed on defts. motion for a bill of particulars filed on 12-7-73: Items 1 and 2 granted, Item 3 granted only to the extent of describing whether the deft. was a seller or buyer of the heroin in the transaction contained in ct.8. Otherwise it is denied as requesting the theory of the government's case. So ordered. - Metzner, J. (m/n)                           |
| Jan-21-74 | ARMANDO GARCIA-ALVAREZ- Filed memo endorsed on defts. motion for discovery filed on 12-7-73: Motion is granted in part and denied in part as indicated. - So ordered. - Metzner, J. (m/n)   |
| Jan-21-74 | ORLANDO GIL - Filed memo-endorsed on motion filed 12/13/73 for Bill of Particulars is denied in part and granted in part: Motion for Discovery granted in part and denied in part. Deft.'s motion to dismiss the Ind. will be disposed of in a separate memorandum. - Metzner, J. (m/n)   |
| Jan-21-74 | CIRO RODRIGUEZ-CALANA and FRANCISCA ORTEGA-RODRIGUEZ - Filed memo-endorsed on motion filed Nov.16, 1973 for Bill of Particulars, denied in part and granted in part. Metzner, J. - (m/n)  |
| Jan-21-74 | ARMANDO GARCIA-ALVAREZ - Filed Memo-endorsed on Motion dtd. 12/7/73 for Suppression is denied - Metzner, J. (m/n)   |
| Jan-21-74 | JOSE ANGEL AQUILERA - Filed Memo-endorsed on Motion dtd., 12/14/73: Motion for Bill of Particulars denied in part and granted in part/ Motion for Discovery granted in part and denied in part; Motion to Strike Aliases is denied; Motion for Severance denied; Motion for Election of Counts-denied. Deft's motion to dismiss the indictment will be disposed of in a separate memorandum - Metzner, J. (m/n) |
| Jan-21-74 | HECTOR ECHEVARRIA - Filed Memo-endorsed on Motion dtd 12/13/73--Bill of Particulars denied in part and granted in part. Deft's request for discovery of his own statements is granted pursuant to Rule 16(a), Fed.R.Crim.P. So ordered-Metzner, J. (m/n)  |
| Jan-21-74 | HECTOR ECHEVARRIA - Filed memo-endorsed on Motion dtd. 12/13/73 - Deft's pro se motion for the appointment of an investigator is denied. No facts have been offered by the deft. to justify this appointment - So ordered - Metzner, J. (m/n)   |
| Jan-21-74 | HECTOR ECHEVARRIA - Filed Memo-endorsed on Motion dtd 12/19/73 - Deft. has joined in all other motions made by the other co-defendants. His motions are disposed of in a separate memorandum - So ordered - Metzner, J. (m/n)   |
| Jan-22-74 | Motion to dismiss count ONE (1) as to Deft. TEPANES is granted. - Metzner, J.   |
| Jan-22-74 | RICOBERTO ROSAL RODRIGUEZ - Filed Memo-endorsed on Motion dtd. 12/7/73 - This motion disposed of in accordance with opinion filed on Companion Motion by Ortega Alvarez, So ordered - Metzner, J. (m/n)   |
| Jan-22-74 | RAUL ORTEGA-ALVAREZ a/k/a RAUL ORTEGA, et al. - Filed memo-endorsed on Motion to Transfer This motion is marked off the Calendar as moot - So ordered - Metzner, J. (m/n)   |
| Jan-22-74 | RAUL ORTEGA - ALVAREZ a/k/a RAUL ORTEGA et al. - Filed Notice of Motion, dismissing the 2nd Indictment etc.   |



| DATE      | PROCEEDINGS   |
|-----------|---|
| Jan.22-74 | AGUILERA - Filed Memo-endorsed on Motion dtd.1/8/74 - This motion is disposed of in accordance with opinion filed in companion motion by Ortega-Alvarez- So ordered - Metzner, J. (m/n)   |
| Jan.22-74 | ARMANDO DELGADO ALVAREZ - Filed memo-endorsed on Motion dtd. 11/20/73 --This motion is marked withdrawn pursuant to order approving substitution of attorneys - So ordered - Metzner, J. (m/n)  |
| Jan.22-74 | PRADA - Filed memo-endorsed on Motion dtd 12/4/73 -- This motion is disposed of in accordance with opinion filed in companion motion by Ortega-Alvarez - So ordered - Metzner, J. (m/n)   |
| Jan.22-74 | ALL DEFTS. (WHO MOVED FOR DISMISSAL OF INDICTMENT)--Filed OPINION #40261 dismissing Motions by the various defendants to dismiss the Indictment. The motions to dismiss the indictment are denied. The denials of all motions to dismiss the indictment because of the plea of double jeopardy are without prejudice to renewal at the close of the government's case, if justified by the record at that time - So ordered - Metzner, J. (m/n) |
| Jan.23-74 | ARMANDO ALVAREZ ads. - Filed memo-endorsed on letter to Metzner, J. dtd 1/21/74 This motion is denied - so ordered - METZNER, J. (m/n)  |
| Jan.18-74 | ARMANDODELGADO ALVAREZ a/k/a ARMANDO GARCIA ALVAREZ - Filed Order of substitution of attorney. from Barry R. Shappro to Harold Frankel, 253 Bway, N.Y.  |
| Jan.24-74 | CIFRE, Charles Busigo - Filed order that deft. be granted leave to depart from this Court to Miami, Florida & San Juan Puerto Rico from 1/25/74 - 2/8/74 So ordered Metzner, J.   |
| Jan.28-74 | HECTOR ECHEVERRIA - Filed Memo-endorsed on Motion to Dismiss dtd 12/13/73 -- The motion to dismiss the indictment is denied - So ordered - Metzner, J. (m/n)  |
| Jan.28-74 | HECTOR ECHEVERRIA - Filed Memo-endorsed on Motion to suppress all statements dtd. 12/13/73 -- The government's affidavit in opposition to this motion indicates that no statements of the deft. exist - therefore the motion is denied So ordered - Metzner, J. (m/n)   |
| Jan.28-74 | Filed Govt. Bill of Particulars   |
| Jan.29-74 | ORLANDO GIL - Filed CJA 21 approving payment to Court reporters.  |
| Jan.29-74 | CARLOS TAPANES - Filed CJA 20 appointing defense council Robert Mitchell esq. Orig. mailed to Wash.D.C.   |
| Feb.1-74  | ALVAREZ - Filed Amended and Supplemental Bill of Particulars.   |
| Dec.7-73  | JOHN DOE - Filed Warrant for Arrest. w/Marshal's return dtd 11/29/73  |
| Feb.6-74  | OLANDO GIL - Filed CJA 21 Authorization for <del>transcript</del> Transcript. Original mailed to AO Wash.D.C.--Metzner, J.  |
| Feb.6-74  | CHARLES BUSIGO CIFRE - Filed order that deft. be granted leave to depart to Miami, Fla. and San Juan Puerto Rico from 2/6/74 until 2/13/74, upon the condition that in the event the said AUSA shall deem his presence necessary in this jurisdiction at any time within the said period of his authorized absence from this jurisdiction, the deft. shall render himself to further order of Court   |

26A

| DATE      | PROCEEDINGS  |
|-----------|--|
| Feb.20-74 | JOAQUIN R. PRADA - Filed OPINION #40375 - Count 1 dismissed (Conspiracy) Motion for a severance is granted - Metzner, J. (m/n)                                     |
| Feb.21-74 | DOMINGO DEL CRISTO - Filed CJA 20 Approving payment of William Richman, 565 Fifth Av. N.Y. (original mailed to AO Wash.D.C.)                                       |
| Feb.21-74 | JOSE ANGEL AGUILERA - ORTEGA ALVAREZ - Filed CJA 21 Authorization of Interpreter Melida B. Hughes of 171 W. 12th St., N.Y.10011                                    |
| Feb.20-74 | Filed letter of Jorge Infiesta dtd 2/15/74   |
| Feb.22-74 | JOSE RAMIREZ RAMOS - File from Magistrate Osman from the SD of Florida, Miami, Fla. Order of Removal: Magistrate's proceedings \$5,000 surety bond attached etc.   |
| Feb.27-74 | ALVAREZ & INVIESTA - Filed Financial Affidavit.  |
| Feb.27-74 | RAUL ORTEGA ALVAREZ - Filed true copy from U.S.C.A.--Petition for a writ of mandamus having been filed together with a motion for a stay is hereby denied.--Clerk. |
| Feb.27-74 | Filed CJA 20 Appointment of Edward S. Panzer, 299 Bway, N.Y.10007 - ORTEGA ALVAREZ - HECTOR ECHEVARRIA   |
| Mar.11-74 | Filed Affidavit for RIGOBERTO ROSAL RODRIGUEZ (where attorney would be unable to appear in court for continuation of trial on 3/11/74.)                            |
| Mar.15-74 | JOSE ANGEL AGUILERA - Additional Requests to Charge --Requests to Charge   |
| 3-15-74   | CHARLES BUSIGO CIFRE - Def't's Request to Charge   |
| 3-15-74   | ARMANDO GARCIA ALVAREZ - Requests to Charge  |
| 3-15-74   | CIRO RODRIGUEZ CALANA and FRANCISCA ORTEGA RODRIGUEZ _ Filed Request to Charge   |
| 3-15-74   | RAUL ORTEGA ALVAREZ - Filed Requests to Charge   |
| 3-19-74   | RIGOBERTO ROSAL RODRIGUEZ - Filed Request to Charge.   |
| 3-28-74   | JOHN WESLEY EGAN - Writ Satisfied  |
| 4-3-74    | HECTOR ECHEVARRIA - Filed Warrant for Arrest with Marshal's return, that def't. received a "not guilty" verdict on this charge.                                    |
| 4-22-74   | Filed C.J.A. 21 Authorizing Jacqueline, Montagu, 209 E. 56th St., N.Y.10022 - original mailed to Wash. D. C.<br>ORTEGA ET AL.                                      |
| 4-22-74   | Filed Copy of CJA 21 Authorizing payment on the above - METZNER, J.  |
| 4-22-74   | JOSE OTERO & CIRILLO FIGUEROA - Filed CJA 21 Authorizing Emma Tolmach, 7 Davison St. E. Rockway, N.Y. 11518  |
| 4-22-74   | Filed Copy CJA 21 Approving payment of above interpreter. - METZNER, J.  |
| 4-22-74   | RIGOBERTO ROSAL - Filed CJA 21 Authorization of Maria Helena Cardenas, 319 E. 93rd St., N.Y. Original mailed to A.O Wash.D.C.                                      |
| 4-22-74   | Filed Copy of CJA 21 Approving Payment of said interpreter - Metzner, J.   |



27A

| DATE    | PROCEEDINGS  |
|---------|--|
|         | JOSE OTERO-  |
| 4-22-74 | Filed CJA 21 Authorization of Joelle McCall, 300 E. 40th St., N.Y. Interpreter   |
| 4-22-74 | Filed Copy of CJA 21 Approving payment on the above -- METZNER, J.   |
| 4-22-74 | CIBO RODRIGUEZ CALANA - Filed Notice of Appeal to U.S.C.A. 2nd Circuit from Judgment dated 4/22/74 as to sentence. (mailed copy to Deft. 14-1/2 Third St. Elizabeth, N.J. + U.S. Atty. |
| 4-22-74 | ARMANDO ALVAREZ - Filed Notice of Appeal to U.S.C.A. 2nd Circuit from Judgt. entered on sentence imposed. (mailed copy to Deft. 2431 SW 77 Ct., Miami, Fla., + U.S. Atty.              |
| 4-22-74 | DOMINGO DEL CRISTO - Filed Personal Recognizance Bond pending appeal in the sum of \$25,000.00 secured by \$2,500 Cash.  |
| 5-3-74  | REYES-PADRON, Luis - CLOSED STATISTICALLY BECAUSE DEFT. IS A FUGITIVE.   |
| 5-3-74  | SARRIA, Jose Luis - CLOSED STATISTICALLY BECAUSE DEFT. IS A FUGITIVE   |
| 5-3-74  | JOE, John - Closed Statistically because Deft. is a Fugitive   |
| 5-3-74  | PEREZ, Francisco Orlando - Closed Statistically because Deft. is a Fugitive..  |

28A

[illegible]

| ABSTRACT OF COSTS                         |        | CASH RECEIVED AND DISBURSED |            |          |           |
|---|--------|-----------------------------|------------|----------|-----------|
| 07)                                       | AMOUNT | DATE                        | NAME       | RECEIVED | DISBURSED |
| Fine,                                     |        | 4/10/74                     | Reed       | 5-       |           |
| Clark, J.S.: 3-7-11-21                    |        | 4/10/74                     | Frankel    | 5-       |           |
| Marshal,                                  |        | 4/10/74                     | Thorn      |          | 10 -      |
| Attorney,                                 |        | 4/10/74                     | Jacobs     | 5-       |           |
| <del>XXXXXXXXXXXX</del> T. 21,26          |        | 4/10/74                     | Thorn      |          | 5 -       |
| <del>XXXXXXXX</del> 173,4;4701,4237       |        | 4/10/74                     | Perlmutter | 5-       |           |
| exp.to import & receive & buy             |        | 5/1/74                      | Thorn      |          | 5 -       |
| drugs in viol. of Fed. Narcotic           |        | 5/1/74                      | Michelin   | 5-       |           |
| laws of the U.S.(Ct.1) Receipt & purchase |        | 5/1/74                      | Thorn      |          | 5 -       |
| Heroin(Cts.2-17)                          |        |                             |            |          |           |
| (Seventeen Counts)                        |        |                             |            |          |           |

[illegible]



page 2.

| Clerk   | DATE | PROCEEDINGS  | CLERK'S FEES |           |
|---------|------|--|--------------|-----------|
|         |      |  | PLAINTIFF    | DEFENDANT |
| 4-21-74 | ✓1   | RAUL ORTEGA-ALVAREZ, a/k/a Raul Ortega-Cts. 1, 2, 3  |              |           |
| 4-21-74 | ✓2   | CIRO RODRIGUEZ-CALANA, a/k/a Ciro A. Calana, a/k/a Ciro Rodriguez-1&2  |              |           |
| 3-20-74 | ✓3   | FRANCISCA ORTEGA-RODRIGUEZ, a/k/a Francisca Rodriguez, a/k/a Paca-Ct. 1  |              |           |
|         | ✓4   | LUIS REYES-PADRON, a/k/a Luis Reyes-1&3 (Francisco)  |              |           |
| 4-22-74 | ✓5   | JORGE INFUESTA, a/k/a Hueso, a/k/a George-1&3  |              |           |
|         | ✓6   | JOAQUIN R. PRADA, a/k/a El Gardego, a/k/a El Gallego-1&12  |              |           |
| 3/20/74 | ✓7   | HECTOR ECHEVARRIA, a/k/a Liborio Morales, a/k/a Hector Arnold Echevarria-Ric   |              |           |
| 4-21-74 | ✓8   | CHARLES BUSIGO-CIFRE, a/k/a Charley Busigo, Charley Cifre, a/k/a Cifre-1&5   |              |           |
| 4-22-74 | ✓9   | DOMINGO DEL CRISTO-1&6   |              |           |
| 4-22-74 | ✓10  | ARMANDO GARCIA-ALVAREZ, a/k/a Armando Garcia, a/k/a Armando Alavarez, a/k/a Andres Alvarez, a/k/a Joaquin Gonzalez, a/k/a El Chino-1&8 |              |           |
| 3/20/74 | ✓11  | JOHN DOE, a/k/a Hugo El Americano, a/k/a Hugo Contero Viera, a/k/a Hugo Viera-1&9 T/N Elias Hugo Viera (see 2-20-74)                   |              |           |
|         | ✓12  | JOSE LUIS SARRIA, a/k/a Pepito, a/k/a Pepe, a/k/a Carlos Hernandez-1&10 (see 2-20-74)  |              |           |
|         | ✓13  | JOHN DOE, a/k/a Roberto-1  |              |           |
| 4-21-74 | ✓14  | JOSE OTERO, a/k/a Pepe-1&14  |              |           |
|         | ✓15  | FRANCISCO ORLANDO PEREZ, a/k/a Francisco Perez, a/k/a Paco, a/k/a Jose-1&7 (see 2-20-74)   |              |           |
|         | ✓16  | ORLANDO GIL, a/k/a Joaquin Gil, a/k/a Joaquin Orlando Gil y Montero, a/k/a Luis Francisco Gil-1&7                                      |              |           |
| 4-22-74 | ✓17  | Cirillo Figueroa, a/k/a Lazarito, a/k/a Lazaro, El Guajiro-1&11  |              |           |
| 3-13-73 | ✓18  | RIGOBERTO ROSAL-RODRIGUEZ, a/k/a Blaco Serra, a/k/a Blanquito Serra, a/k/a rigo, a/k/a Rigo Rosal, a/k/a Roberto-1&13                  |              |           |
|         | ✓19  | JOSE RAMIREZ-RAMOS, a/k/a Jose Ramirez, a/k/a Chevas-1&15  |              |           |
|         | ✓20  | JOHN DOE, a/k/a Roberto Lopez-1&16 (see 2-20-74)   |              |           |
| 3-20-74 | ✓21  | JOSE ANGEL AGUILERA, a/k/a Jose Alberto Aguilera, a/k/a El Moro, a/k/a Mauro, a/k/a Moscoso-1&17                                       |              |           |
| 1-22-74 | ✓22  | CARLOS TAPANES, a/k/a Charlie-Ct. 1  |              |           |

page 4

## PROCEEDINGS

| DATE       |  |
|------------|--|
| Feb. 19-74 | ORLANDO GILL with his interpreter and atty present) signs waiver of indictment and Pleads GUILTY to an information #74Cr.180 - Plea Accepted - Metzner, J.   |
| Feb. 20-74 | RAUL ORTEGA ALVAREZ & HECTOR ECHEVARRIA - through their interpreters plead Not Guilty by reason of Double Jeopardy. The remaining defendants through their interpreters plead NOT GUILTY.<br>The following pleaded NOT GUILTY<br>CIRO RODRIGUEZ CALANA<br>FRANCISCA ORTEGA RODRIGUEZ<br>JORGE INFUESTA<br>CHARLES BUSIGO-CIFRE<br>DOMINCO DEL CRISTO<br>ARMANDO ALVAREZ<br>ELIAS HUGO VIERA (Substituted for "JOHN DOE a/k/a HUGO EL AMERICANO ETC.)<br>JOSE OTERO<br>CIRILLO FIGUEROA<br>ROGOBERTO ROSAL RODRIGUEZ<br>JOSE ANGEL AGUILERA<br><br>The defendant JOAQUIM R. PRADA appears in Court on a writ is severed from this indictment.<br>Following names of interpreters<br>GERARDO SANCHEZ<br>LENA JASLOW<br>NELIDA HUGHS<br>JOELLE McCALL<br>NELVIN QUINONES<br>The following defendants appeared in court on a WRIT<br>CIRILLO FIGUEROA<br>HECTOR ECHEVARRIA<br>RIGOBERTO ROSAL RODRIGUEZ<br>JOSE OTERO<br>Jury empaneled and sworn -X |
| Feb. 20-74 | Trial Begun  |
| Feb. 22-74 | RAUL ORTEGA-ALVAREZ - Courts Exhibits received, ordered sealed - Metzner, J.   |
| Feb. 25-74 | HECTOR ECHEVARRIA - Filed true copy from U.S.C.A. for leave to proceed in forma pauperis to for a writ of mandamus - Anderson, Mansfield, Oakes, J.  |
| Feb. 22-74 | Filed Memo-endorsed on HECTOR ECHEVARRIA'S Motion dtd 2/19/74--This motion was denied on the record in open court. So ordered - Metzner, J. (m/n)  |
| Feb. 25-74 | JORGE INFUESTA - Filed CJA Approving payment of Counsel John Connor, 2401 E. Tremont Av., Bronx, N.Y. - Metzner, J.  |
| Feb. 27-74 | RAUL ORTEGA ALVAREZ - Filed memo-endorsed on Motion--Motion denied with leave to renew at the end of the governments case. So ordered - Metzner, J.  |
| Feb. 27-74 | Filed one envelope ordered sealed by the Court, Metzner, J.  |
| Mar. 1-74  | Filed Envelope Court Ordered Sealed w/Cashier--Metzner, J.   |
| Mar. 1-74  | Filed Affidavit for Writ of Habeas Corpus AD Testificandum Issue.  |
| Mar. 1-74  | Filed Petition for Writ of Habeas Corpus AD Testificandum to produce Nelson Garcia.  |



- page 5 -

| DATE    | PROCEEDINGS   |
|---------|---|
| 2-20-74 | Trial Severed as to JOAQUIN R. PRADA, and continued as to:<br>RAUL ORTEGA ALVAREZ; CIRO RODRIGUEZ CALANA; FRANCISCA ORTEGA RODRIGUEZ;<br>JOSÉ INIESTA; HECTOR ECHEVARRIA; CHARLES BUSIGO CIERE; DOMINGO DEL CRISTO;<br>ALFONSO ALVAREZ; ELIAS HUGO VIERA; JOSE OTERO; CIRILLO FIGUEROA;<br>RIGOBERTO ROSAL RODRIGUEZ; JOSE ANGEL AGUILERA — METZNER, J. |
| 2-21-74 | Trial continued. Gustave Hoffman (interpreter) sworn - Metzner, J.  |
| 2-22-74 | Trial continued.  |
| 2-25-74 | Trial continued. Juror #9 has been excused from any further service in this matter and alternate Juror #1 is now sworn and replaces Juror #9. - Metzner, J.   |
| 2-26-74 | Trial continued. Miss Enid Pagan (interpreter) sworn. The witness MIGUEL RODRIGUEZ having been brought to Court on a writ of H/C. - Writ Satisfied- Metzner, J.   |
| 2-27-74 | Trial continued. Alternate Juror #5, excused from any further service in this issue with consent of the defense counsel - Metzner, J.   |
| 2-28-74 | Trial continued - Metzner, J.   |
| 2-27-74 | CIRILLO FIGUEROA - Filed CJA 21 - Authorization of Transcript - Metzner, J.<br>(original mailed to AM Off. Wash, D.C.)  |
| 2-27-74 | JOSE ANGEL AGUILERA - Filed CJA 21 - Authorization of Transcript - Metzner, J.  |
| 2-27-74 | HUGO CONTERO VIERA - Filed CJA 21 - Authorization of Payment of Transcript for Trial - Metzner, J. (original mailed to AO Wash, D.C.)   |
| 2-27-74 | HECTOR ECHEVARRIA - Filed CJA 21 - Authorization of Payment of Transcript for Trial - Metzner, J. (original mailed to AO Wash, D.C.)  |
| 3-7-74  | RODRIGUEZ, FRANCISCA & Cirro Rodriguez Calana - Filed Motion for issuance of Subpoena - Metzner, J.   |
| 3-1-74  | Trial continued - Metzner, J.   |
| 3-4-74  | Trial continued   |
| 3-5-74  | Trial continued Emma Tolmach sworn in as interpreter - Metzner, J.  |
| 3-6-74  | Trial continued- Interpreter Norma Seltzer and Margarita Menea duly sworn.<br>Def't. RAULINO GONZALEZ Appeared in Court on a writ. The record also show that Def'ts. ECHEVARRIA-RIGOBERTO ROSAL RODRIGUEZ-CIRILLO FIGUEROA and JOSE OTERO have all been appearing in Court on writs. - Metzner, J.  |
| 3-7-74  | Trial continued - Interpreter Jacqueline Montague - Trial adjourned to 3/11/74 - Metzner, J.  |
| 3-7-74  | CIRO RODRIGUEZ-CALANA and FRANCISCA ORTEGA RODRIGUEZ - Filed Motion for Issuance of Subpoena  |
| 3-13-74 | Filed Affidavit for Writ of Habeas Corpus ad Testificandum Issued.  |
| 3-14-74 | Filed-ELIAS HUGO VIERA - MEMORANDUM OF LAW  |
| 3-14-74 | Filed-DOMINGO DEL CRISTO - Motion for Judgment of Acquittal and Memorandum of Law.  |



32A

page 6

| DATE       | PROCEEDINGS  |
|------------|--|
| 3-14-74    | RIGOBERTO ROSAL RODRIGUEZ - Filed Memorandum of Law  |
| 3-14-74    | ARMANDO GARCIA ALVAREZ et al. - Filed Memorandum of Law  |
| 3-14-74    | RAUL ORTEGA-ALVAREZ et al - Filed Memorandum of Law.   |
| 3-14-74    | CHARLES BUSICO CIPRE - Memorandum of Law   |
| 3-14-74    | Filed Government Memorandum of Law.  |
| 3-14-74    | JOSE ANGEL AGUILERA - Filed Memorandum of Law, for Judgment of Acquittal   |
| 3-14-74    | HECTOR ECHEVERRIA - Filed Memorandum of Law  |
| 3-14-74    | Filed Govt. Affidavit in Response Deft. Echeverria's Motion.   |
| 3-14-74    | Filed CIRIDO FIGUEROA - JOSE OTERO - Filed Defts. Memorandum of Law.   |
| 3-15-74    | RAUL ORTEGA ALVAREZ - Filed Deft's Requests to Charge  |
| 3-15-74    | HECTOR ECHEVERRIA - Filed Motion to Requests to Charge.  |
| 3-15-74    | CIRO RODRIGUEZ-CALANA and FRANCISCA ORTEGA RODRIGUEZ - Filed Defts' Request to Charge.   |
| 3-15-74    | ARMANDO GARCIA ALVAREZ - Requests to Charge on behalf of the Deft.   |
| 3-15-74    | JOSE ANGEL AGUILERA - Filed Requests to Charge   |
| 3-15-74    | " " " " Additional Requests to Charge  |
| 3-15-74    | CHARLES BUSICO CIPRE - Filed Deft's Request to Charge.   |
| 3-15-74    | Filed Govt's Requests to Charge.   |
| 3-11-74    | Trial Continued - Hearing on motion to suppress as to Raul Ortega Alvares. - Hearing Held - Motion denied. Trial continued - Govt. Rests - METZNER, J. |
| 3-13-74    | Motion to <u>dismiss count Nine</u> as to <u>Rucho Elias Viera</u> is granted  |
| "          | Motion to <u>dismiss Counts ONE and THIRTEEN</u> as to <u>RIGOBERTO ROSAL RODRIGUEZ</u> is granted   |
| Mar 14-74  | Trial Continued - Metzner, J.  |
| 3-19-74    | Filed Copy submitted from S.D. of Florida - Hearing on Plea  |
| 3-19-74    | Filed copy of U.S.C.A 2nd Circuit Petition for a Writ of Mandamus and Prohibition.   |
| 3-19-74    | Filed CIPRE & ALVAREZ - Govt. Memorandum of Law  |
| 3-19-74    | Filed Go at. Memorandum of Law   |
| 3-19-74    | Filed Govt's Proposed Examination of Prospective jurors.   |
| Mar. 20-74 | Filed one envelope sealed by order of the court. Metzner, J.   |

page 7

| DATE      | PROCEEDINGS  |
|-----------|--|
| Mar-15-74 | Trial Continued  |
| Mar-18-74 | Trial continued. The Court strikes from this indictment Overt Acts #23 and #31.<br>All Examinations completed - Metzner, J.  |
| Mar-19-74 | Trial continued. Jurors requested - Metzner, J.  |
| Mar-20-74 | Trial continued - Jurors continue to deliberate. Jurors return verdict.<br>VERDICT:<br>RAUL ORTEGA - GUILTY on counts 1, 2 & 3. Bail continued. Presentence report ordered.<br>Sentence April 22/1974. See minutes of proceedings as to bail conditions.<br><br>CHARLES BUSIGO CIFRE - GUILTY on counts 1, Not guilty on Ct. 5. Presentence report ordered. Sentence April 22, 1974. <u>DEFENDANTS REMANDED</u><br><br>ARMANDO ALVAREZ - GUILTY on Counts 1 & 8. Bail increased to \$15,000.00 defendant has to Friday Mar. 22, 1974 at 12 Noon to post increased bail. Presentence report ordered. Sentence April 22, 1974. See minutes of proceedings as to Bail conditions<br><br>JOSE OTERO - GUILTY on Counts 1 and 14. Presentence report ordered. Sentence April 22, 1974. Defendant produced in Court on a Writ.<br><br>CIRILLO FIGUEROA - GUILTY on Counts 1 and 11. Presentence report ordered. Sentence April 22, 1974. Defendant produced in Court on a Writ.<br><br>JORGE INPIESTA - GUILTY on counts 1 and 3. Presentence report ordered. Sentence April 22, 1974. See minutes of proceedings as to bail conditions.<br><br>DOMINGO DEL CRISTO - GUILTY ON counts 1 and 6. Presentence report ordered. Sentence April 22, 1974 - <u>DEFENDANT REMANDED</u><br><br>CIRO RODRIGUEZ CALANA - GUILTY on Counts 1 and 2. Presentence report ordered. Sentence April 22, 1974 - See minutes of proceedings as to bail conditions.<br><br>FRANCISCA RODRIGUEZ CALANA - NOT GUILTY on Count 1.<br><br>HUGO VIERA - NOT GUILTY on Ct. 1. Defendant exonerated from bail.<br><br>JOSE AGUILERA - NOT GUILTY on Ct. 1 and Ct. 17.<br><br>HECTOR ECHEVARRIA - NOT GUILTY Counts 1 and 4. Defendant produced in Court on a Writ - METZNER, J. |
| Mar-21-74 | CHARLES BUSIGO CIFRE and DOMINGO DEL CRISTO - Filed ORDER - Defts were found GUILTY and face mandatory minimum sentence of 10 yrs. as second offenders. Both Defts. remanded w/o bail pending sentence.....METZNER, J.   |
| Mar-20-74 | RAUL ORTEGA - Filed Letter dtd 3/1/74 from Morton N. Schwartzman, M.D. 555 Biltmore Way, Coral Gables, Fla. 33134. (re: Children)  |
| Mar-20-74 | Filed Court Exhibit 12 Verdict as written by Jurors.   |
| 3-25-74   | JOSE OTERO - Filed ORDER that the Warden in Federal House of Detention grant permission to defendant to marry NANCY M. AUGIURE upon presentment of a duly authorized clergyman at a time permitted by institution and consented by U.S. At   |



| DATE    | PROCEEDINGS   |
|---------|---|
| 2-22-74 | Filed (ARMANDO ALVAREZ) Appearance Bond sum of \$15,000.00  |
| 3-27-74 | Filed for deft. DEL CRISTO - Affidavit and Notice of Motion for Judgment of Acquittal returnable 3/29/74 at 10AM.   |
| 3-27-74 | JUAN CONTRERAS - Filed Writ of Habeas Corpus Ad Testificandum Issue.  |
| 4-12-74 | Filed Government Affidavit in opposition to Raul Ortega Alvarez's motion for the conspiracy charge in Count 1 of Indt. etc.   |
| 4-16-74 | Filed Transcript of record of proceedings dtd. 2/20, 21, 22, 25, 1974   |
| 4-16-74 | " " " " " " " 2/26, 27, 28, 3/1, 4, 5, 1974   |
| 4-16-74 | " " " " " " " 3/14, 15, 18, 19 and 20 1974  |
| 4-16-74 | " M " " " " " " 3/5, 7, 11, 12, 13, 1974  |
| 4-1-74  | JOSE RAMIREZ - Filed PRB w/o Security in the sum of \$5,000 - Metzner, J.   |
| 4-17-74 | RAUL ORTEGA ALVAREZ - Filed Memo-endorsed on Affidavit dtd 4/12/74 -- As indicated - Court denied deft.'s motion for a directed judgment of acquittal -- No affidavits were submitted to support the deft.'s contention. Rather, reference is made in counsel's brief to the transcript of the change of plea and sentence, all of which occurred on the same day. There was nothing in this transcript that would warrant the holding of an evidentiary hearing. Motion denied. So ordered - METZNER, J. (m/n) |
| 4-22-74 | DOMINGO DEL CRISTO - The deft. admits to the 2nd offender information - Metzner, J.   |
| 3-27-74 | DOMINGO DEL CRISTO - Filed Notice of Motion for a Judgment of Acquittal returnable 3/29/74  |
| 4-22-74 | and Memo-endorsed -- Motion denied So ordered - METZNER, J. (m/n)   |
| 4-22-74 | JOSE OTERO - Filed CJA Authorization of Joell McCall, Interpreter 300 E. 40th St., N.Y. (original mailed AO Wash. D.C.)   |
| 4-22-74 | Filed CJA 21 Approving authorization on the above -- METZNER, J.  |
| 4-22-74 | Filed (ORTEGA ET AL) CJA Authorization of Jacqueline Montague, 209 E. 56th St., N.Y. (original mailed AO Wash. D.C.)  |
| 4-22-74 | Filed Copy of CJA 21 Approving payment on the above -- Metzner, J.  |
| 4-22-74 | Filed CJA 21 -- JOSE OTERO, CIRILLO FIGUEROA -- Authorization of Interpreter Emma Tolmach 7 Davison St., E. Rockaway, N.Y. (original mailed to AO Wash. D.C.)   |
| 4-22-74 | Filed Copy of CJA 21 on the above approving payment (METZNER, J.)   |
| 4-22-74 | Filed CJA 21 for OTERO & FIGUEROA - Authorization of Interpreter - Yolanda Franceschi, 2041 Lafayette Av., Bx, N.Y. (original mailed to AO Wash. D.C.)  |
| 4-22-74 | Filed Copy of CJA 21 on above approving payment -- Metzner, J.  |
| 4-22-74 | JOSE OTERO - Filed CJA 21 Authorization of Interpreter - Joseph I. Stone, 277 Bway, N.Y. (original filed AO Wash. D.C.)   |
| 4-22-74 | Filed Copy of CJA 21 Approving payment on the above -- METZNER, J.  |
| 4-22-74 | HECTOR ECHEVERRIA - Filed CJA 21 Authorization of Interpreter Leonardo Vidal, 666 West 188 St., N.Y. (original mailed to AO Wash. D.C.)   |
| 4-22-74 | Filed Copy of CJA 21 approving payment on the above - Metzner, J.   |



35A

| DATE    | PROCEEDINGS   |
|---------|---|
|         | — page 9 —  |
| 4-22-74 | CIRO RODRIGUEZ CALANA - Filed Notice of Appeal to U.S.C.A. 2nd Circuit from Judgment dated 4/22/74 as to sentence imposed. (mailed to Deft. 14-1/2 Third St. Elizabeth, N.J., U.S. Atty's Office.   |
| 4-22-74 | ARMANDO ALVAREZ - Filed Notice of Appeal to U.S.C.A. 2nd Circuit from Judgt. entered on sentence imposed. mailed to Armando Alvarez 2431 SW 77 ct. Miami, Fla., U.S. atty.  |
| 4-22-74 | ARMANDO ALVAREZ - Filed Personal Recognizance Bond pending appeal, sum of \$50,000. Public Service Mutual Ins. Co.  |
| 4-22-74 | ARMANDO ALVAREZ - Filed Personal Recognizance Bond pending appeal, sum of \$75,000.   |
| 4-23-74 | JORGE INFUESTA - Filed Notice of Appeal to U.S.C.A. from final Judgment 4/22/74 copies mailed to Deft. F.H. of Detention, 427 W. St., N.Y. and U.S. Atty.   |
| 4-23-74 | DOMINGO DEL CRISTO - Filed Notice of Appeal to U.S.C.A. from the final Judgment entered 4/22/74 - Copies mailed to Deft. Fed. House of Det. 427, W. St., N.Y., U.S. Atty.   |
| 4-24-74 | DOMINGO DEL CRISTO - Filed Personal Recognizance Bond pending appeal in the sum of \$25,000.00 secured by \$2,500.00 Cash.  |
| 4-22-74 | CIRO RODRIGUEZ CALANA - Filed JUDGMENT (atty. present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of SIX (6) YEARS on each of counts (1) and (2) to run concurrently with each other - METZNER, J. (copies issued)   |
| 4-22-74 | JORGE INFUESTA - Filed JUDGMENT (atty. present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of EIGHT (8) YEARS on each of counts (1) and (3) to run concurrently with each other. METZNER, J. (copies issued)   |
| 4-22-74 | DOMINGO DEL CRISTO - Filed JUDGMENT (atty. present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TEN (10) YEARS on each of counts (1) and (6) to run concurrently with each other - METZNER, J. (copies issued)   |
| 4-22-74 | ARMANDO ALVAREZ - Filed JUDGMENT (atty. present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of EIGHT (8) YEARS on each of counts (1) and (8) to run concurrently with each other - METZNER, J. (copies issued.)  |
| 4-24-74 | JOSE OTERO - Filed JUDGMENT (atty. present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of FIVE (5) YEARS on each of counts (1) and (14) to run concurrently with each other, and to commence upon completion of his imprisonment under the existing sentence now serving. METZNER, J. (copies issued)      |
| 4-22-74 | CIRILLO FIGUEROA - Filed JUDGMENT (atty. present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of EIGHT (8) YEARS on each of counts (1) and (11) to run concurrently with each other and to commence upon completion of his imprisonment under the existing sentence now served. METZNER, J. (copies issued) |

36A

page 10

74 CR 18

| DATE    | PROCEEDINGS   |
|---------|---|
| 4-23-74 | CIRO RODRIGUEZ CALANA - Filed Personal Recognizance Bond pending appeal in the sum of \$25,000.00 secured by \$3,000.   |
| 4-25-74 | HECTOR ECHEVARRIA - Filed CJA 21 Authorization for Transcript from S.D. Court Reporters (original mailed to AO Wash.D.C.)   |
| 4-25-74 | HUGO CONTERO VIERA - Filed CJA 21 Authorization of Transcript from S.D. Court Reporters (original mailed to AO Wash.D.C.)   |
| 4-25-74 | CIRILLO FIGUEROA - Filed CJA 21 Authorization of Transcript from S.D. Court Reporters (original mailed to AO Wash.D.C.)   |
| 4-25-74 | JOSE ANGEL AGUILERA - Filed CJA 21 Authorization of Transcript from S.D. Court Reporters (original mailed to AO Wash.D.C.)  |
| 4-25-74 | Filed Transcript of record of proceedings dtd 2/6/74.   |
| 4-30-74 | CHARLES BUSICO CIFRE - --- endorsed on copy of Second Offender Information-- Deft. with his attorney present admits the charge in this information and is the person named herein--METZNER,J.   |
| 4-29-74 | RAUL ORTEGA ALVAREZ - Filed Notice of Motion returnable 4/29/74 at 10 o'clock for an order granting an evidentiary hearing etc.   |
| 4-29-74 | RAUL ORTEGA ALVAREZ - Filed Government's Affidavit in Opposition to deft. request of a hearing.   |
| 4-29-74 | RAUL ORTEGA ALVAREZ - Filed JUDGMENT (attorney present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TWELVE (12) YEARS on each of counts (1) (2) and (3) to run concurrently with each other - METZNER,J. (copies issued) |
| 4-30-74 | CHARLES BUSICO CIFRE - Filed JUDGMENT (atty. present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TEN(10) YEARS on count One (1) - METZNER,J. (copies issued)  |
| 4-30-74 | CHARLES BUSICO CIFRE - Filed Notice of Appeal - Appellant sentenced 4/30/74 on conviction on Count 1 of the Indictment by a Jury on March 20, 1974 (mailed notices to Deft. and Hermena Perlmutter, 258 Bway,N.Y.10007  |
| 5-1-74  | CIRILLO FIGUEROA - Filed notice of appeal from judgment entered on April 22-74 m/n.   |
| 5-1-74  | RAUL ORTEGA-ALVAREZ - Filed notice of appeal from judgment entered on April 29-74. m/n  |
| 5-1-74  | RAUL ORTEGA-ALVAREZ - Filed Affidavit of Max B. Kogen   |
| 5-1-74  | DOMINGO DEL CRISTO - Filed Remand w/Marshal's return dtd. 4/24/74   |
| 5-1-74  | CIRO RODRIGUEZ CALANA - Filed Remand w/Marshal's return dtd 4/23/74   |
| 5-1-74  | Cirillo Figueroa - Filed Notice of Appeal, D.A. delivered to Judge Metzner  |
| 5-1-74  | JOSE OTERO - Filed letter recieved from Atty. addressed to Judge Metzner re: Waiver of Appeal, and copy of letter from deft. re: Waiver of appeal.  |
| 3-19-74 | RAUL ORTEGA ALVAREZ - Received copy of Hearing on Plea from SD of Florida   |



| DATE     | PROCEEDINGS  |
|----------|--|
| May 6-74 | Bail application on behalf of Charles Busigo Cifre through his attorney. Bail application denied - METZNER, J.   |
| May 6-74 | Govt. moves to exonerate the defendant Raul Ortega Alvarez from bail set by magistrates in Florida and received and filed in this district Nov. 7, 1973. Bail was \$ 10,000.00 surety bond. Motion granted - METZNER, J.   |
| 5-1-74   | REYES PARDON, Luis - CLOSED STATISTICALLY BECAUSE DEFT. IS A FUGITIVE IN ALL THIS CASES IS STILL PENDING   |
| 5-1-74   | SARRIA, Jose Luis - CLOSED STATISTICALLY BECAUSE DEFT. IS A FUGITIVE   |
| 5-1-74   | DOE, JOHN - CLOSED STATISTICALLY BECAUSE DEFT. IS A FUGITIVE   |
| 5-1-74   | PEREZ, Francisco Orlando - CLOSED STATISTICALLY BECAUSE DEFT. IS A FUGITIVE.   |
| 5-1-74   | DOE, John - CLOSED STATISTICALLY BECAUSE DEFT. IS A FUGITIVE.  |
| 5-7-74   | Joaquin Roberto Prada - Filed notice of Appearance of Gino P. Negretti, 3061 N.W. 7th St., Miami, Florida 33125 - 649-5104   |
| 5-7-74   | ALVAREZ<br>RAUL ORTEGA - Filed P.R.B. Pending appeal in the sum of \$50,000 surety-Midland Ins.Co  |
| 5-7-74   | ALVAREZ<br>RAUL ORTEGA - Filed Unsecured P.R.B. Pending appeal in the sum of \$25,000.00   |
| 5-7-74   | RAUL ORTEGA ALVAREZ - Filed AMENDED JUDGMENT (atty. present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TWELVE (12) YEARS on each of counts 1, 2 and 3 to run concurrently with each other. Bail pending appeal is increased to \$75,000.00 secured by a \$50,000.00 surety bond and a \$25,000.00 P.R.B. The defendant is remanded in lieu of bail. Special provision of bail being that the defendant is to continue reporting to the Drug Enforcement Administration weekly as in the past (in Florida where the deft. resided) METZNER, J. (copies issued) |



38A

23

SA-5  
8/16/73

Int. Clancy  
Gonzalez

on top of that, whatever he sold belonged to him, and aside from that, we always cut every time we had merchandise, we would cut it and increase the volume and then whatever we cut, obviously was for all three of us.

Q Do you estimate that you cut 45 kilo to about 56 kilo during this entire time period? A Well, the way we did it is that we had a book such as the interpreter has and we would keep a record of how much drugs we would put into each delivery we made and we would cut it with some of the milk for babies, lactose is 60-20, and we would add about 7 ounces to each kilo; anywhere from between 7 and 9 ounces to each kilo, and then at the end of the whole thing we had more or less around 56 kilos.

Q Did you arrange to sell half a kilo of heroin to Domingo Del Cristo? A Yes.

Q And was that arrangement made at the Gallo de Maron Bar? A Yes.

Q And did you arrange to sell another half a kilo after that? A Yes, but it was Raul that authorized that.

Q Did you arrange to sell a half kilo to someone by the name of Felipice? A Yes.

Q Is it your recollection that all of these transactions took place during March and April and possibly May of 1970? A Yes, the dealings were made anywhere between the month of March and May. However, I continued to collect money until the last payment, which must have been sometime between the

1 pgcg

2 waive the detailed reading of this indictment and plead not  
3 guilty?

4 DEFENDANT RODRIGUEZ-CALANA: Yes.

5 THE CLERK: Francisca Ortega-Rodriguez, is Mr.  
6 Reid your attorney?

7 DEFENDANT ORTEGA-RODRIGUEZ: Yes.

8 THE CLERK: Do you waive the detailed reading of  
9 this indictment and plead not guilty?

10 DEFENDANT ORTEGA-RODRIGUEZ: Yes.

11 THE CLERK: Jorge Infiesta.

12 Mr. O'Connor, is your client ready for pleading?

13 THE COURT: Before we take the pleading, I would  
14 like to take up a letter that Mr. Infiesta sent to the court  
15 which was received yesterday morning. Mr. Infiesta states  
16 in this letter that he has had two meetings with Mr. O'Connor,  
17 his court-appointed counsel, and that Mr. O'Connor has told  
18 Mr. Infiesta that he does not believe in Mr. Infiesta's in-  
19 nocence. Consequently, Mr. Infiesta stats that he has  
20 no faith in Mr. O'Connor and asks the court to assign another  
21 attorney to him.

22 This case was set for trail on November 2, four  
23 months ago. The court will not entertain an application to  
24 change attorneys the day before trial. Such an application  
25 would only result in a delay of this trial until new counsel

pgcg

can familiarize himself with the facts of the case.

There are 15 lawyers here who have cleared their calendars to be available for today's trial date. They are all busy attorneys. They cannot sit around and wait for new counsel to come in to represent you.

I think that this application on your part is a delaying tactic which the court will not recognize.

Secondly, Mr. O'Connor has informed the court that he has never told you that he does not believe in your innocence. Quite the contrary is true.

Mr. O'Connor, please place on the record what you told my law clerk regarding your conversation with the defendant Infiesta.

MR. O'CONNOR: I have always believed that Mr. Infiesta was innocent and I asked him -- the only question I ever asked him, does he want to plead guilty to the charge and he said that he is innocent. I said that in that event we would go all the way and that I would fight for him, and that at no time did I ever say he was guilty. I have always maintained his innocence.

THE COURT: The application by you, Mr. Infiesta for a change of attorney is denied.

You may proceed with the proceeding.

THE CLERK: Mr. Jorge Infiesta, is Mr. John O'Connor



41A

112 A Corbin Avenue  
Jersey City, New Jersey  
February 15th, 1974

Federal Judge Charles M. Metzner  
Judge of the Federal Court, Southern District  
U.S. Courthouse  
Foley Square, New York, New York

Re: Court No. 73CR 650

Judge Metzner:

I will be on trial on February 28th, 1974  
before you.

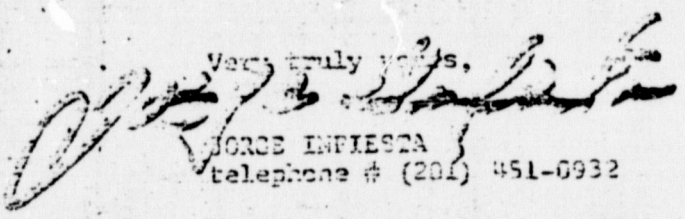
You did appoint a John O'Connor, Jr. as my  
attorney.

I had two meetings with said attorney to  
prepare my defense and he does not believe my innocence, and I  
have no faith in him.

To bring me to trial with Mr. O'Connor as  
my attorney, would be very unfair to me, and that being the case  
may I please ask the Court to assign another attorney to me.

Thank you.

Very truly yours,

  
JORGE INFUESTA  
telephone # (201) 451-0932

ONLY COPY AVAILABLE

42A

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

pgjw 7 M. Rodriguez - direct

149

testified about?

A Yes.

Q Would you tell us what you discussed at that restaurant, if you recall?

A Well, Ortega told us he had to go cut some heroin at Infiesta's apartment, and the four of us went to Infiesta's apartment.

Q Who was there when you got there?

A Infiesta, Ramiro, Ortega, Ciro and myself.

Q Will you tell us what happened there, please?

A Well, Ortega asked Infiesta to bring in the heroin that he had left stashed there. They brought the heroin in, into the room; they brought in a snopping bag with the equipment required for mixing the heroin.

MR. MICHELMAN: Objection, your Honor.

THE COURT: Why?

MR. MICHELMAN: I state that that's a conclusion, your Honor.

THE COURT: He has already testified before with specific reference to items.

MR. MICHELMAN: At a different location with different people.

THE COURT: He is now talking about the equipment. I will take it. He has already detailed it once.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

pgjw 8 M. Rodriguez - direct

Q Would you continue, Mr. Rodriguez?

They came in with a shopping bag.

A A scale, a sealer, plastic bags, sugar. Afterwards Ortega and Infiesta brought the kitchen table into the room.

Q Into which room?

A To this room that looked like a bedroom, and that's where they proceeded to mix the heroin.

Q Was this the first time you saw the mixing of the heroin?

A Yes.

Q Will you tell us what was done including what you did.

A In fact all I did was look, but they said they would add one pound of sugar to that heroin.

Q How many kilograms did they have?

A They said there were four.

Q Describe what they did, indicating who did what.

A Really, the job was done by Ortega and Infiesta. They put the heroin inside a bag; they put the sugar in; they blew air inside the bag and they closed it and they snook it for a certain time.

After that they prepared the packages of heroin



44A

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

pgjw 9

M. Rodriguez - direct

151

in half-kilos and kilos.

Q By adding the lactose to the heroin what happened to the heroin?

THE COURT: He said sugar.

Q By adding the sugar to the heroin what happened to the heroin?

A As far as I know nothing happens. The sugar is added to cut the heroin and increase it.

Q What do you mean by "cut"?

A That's a word that was used when the heroin has a certain potency or purity. You add the sugar and the purity goes down. That's why we call it a "cut."

Q Do you end with more kilograms than when you started out when you add sugar?

A Yes.

Q Incidentally, did anyone come into the apartment of Mr. Infiesta while you were there?

A Yes. Reyes.

45A

1 5apm 12jw 1 M. Rodriguez - direct

152

2 Q Did anybody else come there who did not come  
3 into the apartment?

4 A Figueroa was at the apartment.

5 Q After the four kilograms were cut, Mr. Rodriguez,  
6 did you see what was done with this heroin?

7 A Ortega gave a kilo and a half to Infiesta and  
8 told him that was for him and Reyes. He asked Infiesta  
9 for a bag and put the three kilos of heroin in it. The  
10 rest of the package, which I think must have been around  
11 half a kilo, he asked Infiesta to stash for him.

12 Q Did you see where Infiesta stashed that heroin?

13 A Well, Infiesta said that he was going to stash  
14 it inside his car in the street so as to leave his apart-  
15 ment clean. That's what he said.

16 Q Did you go anywhere from Infiesta's apartment?

17 A Ramiro, Ortega, Ciro and myself left the apart-  
18 ment and we went to Broadway and 110th Street. 110th  
19 Street between Broadway and the one below it, I don't  
20 know which street that is.

21 Q Would you tell us what, if anything, Mr. Ortega  
22 told you when you got to 110th Street in the vicinity  
23 of Broadway?

24 A He made some comments in the car that somebody  
25 named Juan Chaveco lived at that place. And that he was

46A

1 lzjw 2 M. Rodriguez - direct 153  
2 going to deliver three kilos of heroin to him. When we  
3 arrived there, he got off the car and the three of us  
4 remained inside the car. I don't know which apartment  
5 he went to, neither do I know who is Juan Chaveco.

6 MR. RICHMOND: Your Honor, may I have the  
7 answer repeated?

8 THE COURT: Read the answer back.

9 (Answer read)

10 Q Did Mr. Ortega take the bag with the three  
11 kilos in it out of the car?

12 A Yes.

13 Q And did he tell you anything else?

14 A Not at that moment.

15 Q Do you recall whether he said anything else  
16 about sales of heroin at that time?

17 A I remember that when he returned to the car  
18 we came back to uptown Manhattan and he told me and  
19 Ramiro that heroin he had delivered today to Reyes and  
20 Chaveco was the second delivery he had made to them.  
21 That Ramiro and I should get active and should try to  
22 sell the rest of the heroin.

23 Q After the day on which you mixed the heroin at  
24 Mr. Infiesta's apartment, did you see Mr. Infiesta again?

25 A I used to see him regularly.



1 rmr

M. Rodriguez-direct

225 ~~47A~~ 47A

2 A Yes.

3 Q Did he ever ask you for any more heroin from  
4 this shipment?

5 A Yes.

6 Q Would you tell us what that conversation was?

7 A He suggested to me that he needed some more  
8 heroin. I told him that for the moment we had no more,  
9 that Ortega had told me that he was expecting some more to  
10 be brought in and if it arrived, I would sell to him again.

11 Q Do you know Domingo Del Cristo?

12 A Yes.

13 Q When did you first meet him?

14 A That I remember exactly, that was around 1968.

15 Q Did there come a time when you talked  
16 to him about the heroin in this shipment?

17 A Yes.

18 Q Do you recall approximately when this was?

19 A Well, I think it was around the month of  
20 March.

21 Q Whyre did you speak to Mr. Del Cristo?

22 A We used to see each other at Prada's Gas  
23 Station.

24 Q Will you tell us what he said to you and what  
25 you said to him?

48A

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

rmr

M. Rodriguez-direct

226

A Well, he was trying to make contact with Ortega to buy heroin from him.

Q Is that what he said to you?

A Yes. He was a friend of Ortega from before that day, he told me that.

Q Did you ever speak to Raul Ortega about Del Cristo?

A Yes.

Q Will you tell us what Ortega said to you?

A I told Raul "Domingo is trying to locate you, to buy heroin from you," but in fact Ortega did not want to make direct contact with any of the purchasers of material.

Q What did Ortega say to you about selling to Mr. Del Cristo?

A He told me "Yes, I know him from sometime ago. I shall speak with him."

Q Did Ortega ever speak to you again about delivering any heroin to Mr. Del Cristo?

A Well, really, that I remember, there is a series of facts that I remember about collections of money from him, a conversation with a man called Roberto Lopez. That is what I remember about those facts.

MR. MICHELMAN: Objection. Moved to strike

48A

1           rmr                           M.Rodriguez-direct                           227  
2           as non-responsive.  
3                           THE COURT:   Sustained.   Strike the answer.  
4           Q       Did you ever speak to Mr. Del Cristo again  
5           about heroin from this shipment in connection with any  
6           subject at all?  
7                           MISS NEIMAN:   Can you explain to the witness  
8           when an answer is stricken --  
9                           THE COURT:   Tell the witness when I strike  
10          the answer that means it is no longer in the testimony.  
11                          MISS NEIMAN:   I will rephrase the last  
12          question, which has not been translated, your Honor.  
13          Q       Did you ever speak to Mr. Del Cristo about  
14          the payment of money for heroin?  
15          A       I remember that on one occasion he delivered  
16          some money at the 005.   The money was taken to the house of  
17          Ramiro's aunt and there were some problems with that  
18          money.   I don't remember whether the money was short or  
19          some was missing.   I remember that they had problems  
20          collecting from him.   That was a conversation between  
21          Ramiro Gonzalez, Ortega and myself.  
22          Q       To whom did Mr. Del Cristo deliver the money  
23          at the bar, that you mentioned?  
24          A       He gave it to me.  
25          Q       Who took it to -- where was it taken to?



~~50A~~  
50A

1 RMR

M. Rodriguez-direct

228

2 A To the house of an aunt of Ramiro Gonzalez.

3 Q Did you take it there?

4 A Yes.

5 Q You mentioned Roberto Lopez. Do you know  
6 someone by the name of Roberto Lopez?

7 A Yes.

8 Q Did you have a conversation with him about  
9 Mr. Del Cristo?

10 A Well, I remember that one day I arrived at the  
11 Calejo de Raymond and Roberto Lopez told me "The heroin  
12 that you delivered to Del Cristo, it was I who sold it  
13 last time." --

14 THE COURT: Wait, wait --

15 MISS NEIMAN: Mr. Lopez is one of the  
16 defendants who is, however, not on trial here today.

17 THE COURT: He told the witness that the  
18 heroin that the witness delivered -- the witness never  
19 said he delivered heroin to Cristo.

20 MISS NEIMAN: I am about to ask him whether  
21 he recalls the delivery.

22 THE COURT: Why don't you put that first?  
23 The way the testimony stands now is, Ortega said he would  
24 talk to Del Cristo and the next thing in the testimony  
25 is collecting money from Del Cristo. Why don't you ask

57A

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

rmr

M. Rodriguez-direct

229

him whether he ever delivered any.

Q     Do you recall delivering any heroin to Del  
Cristo?

A     No.

Q     And would you again tell us what Mr. Lopez  
said to you?

A     He told me -- this was sort of a --

MR. RICHMOND:     I object to anything anybody  
else told the witness.

THE COURT:     He is named as a defendant in this  
conspiracy count, Mr. Richmond.     Go ahead.

A     The reference he made to me was something  
like as if he thought that it was I who delivered the  
heroin to Del Cristo.

MR. RICHMOND:     Your Honor, I object to that,  
what he thought.

THE COURT:     He is in the middle of his  
answer.     Let's get the whole answer.

A     I did not deliver it to him and I don't  
remember, somebody must have given it to him, but I don't  
remember who it was.

MR. RICHMOND:     I object to that, your  
Honor.

THE COURT:     Sustained.     Strike the whole

52A

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

rmr M.Rodriguez-direct 230  
answer.

MR. RICHMOND: I respectfully ask your Honor  
to instruct the jury to disregard that.

THE COURT: Yes. When I strike an answer,  
ladies and gentlemen of the jury, that means you are to  
disregard it. Striking it means it is not in the  
testimony for your consideration. We can't help, as we  
go through a trial like this, if something comes out that  
technically shouldn't come out, and all I can do is ask  
you to disregard it and you are to use your efforts to  
disregard it.

MR. RICHMOND: Thank you, your Honor.

Q Did you ever see Mr. Lopez and Mr. Del Cristo  
together during this time period?

A Yes.

Q Did you ever sell any heroin directly to  
Roberto Lopez?

A Yes.

Q You have already told us you know Mr.  
*Man*  
~~Nierra El Mirna~~

A Yes.

Q When did you first meet him?

A As far as I can remember, around 1968.

Q Did there come a time when you spoke to



pg1

-M.Rodriguez-cross

453

THE COURT: Mr. Richman, I think you ought to go next. You said you only have ten minutes.

CROSS-EXAMINATION

BY MR. RICHMAN:

Q Mr. Rodriguez, you have never seen me before, have you?

A I don't recall.

Q I'm Mr. Del Cristo's lawyer.

You testified a few days ago in answer to a question from the government's attorney: Did you ever sell any heroin to Mr. Del Cristo? You answered no, is that right?

A Yes.

Q You are absolutely sure?

A Yes.

Q Mr. Rodriguez, you testified before the grand jury on March 22, 1973 in this case, if you remember? That was about a year ago.

A I think it was on that date.

Q Mr. Harris was the United States Attorney. Do you remember him? A little fellow, a good looking fellow, much younger than me.

A Yes. Small like you.

MR. STONE: A little younger.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

pgr2

M.Rodriguez-cross

454

THE COURT: Not as good looking.

Q Did he show you a copy of the testimony before the grand jury?

A I don't recall that he showed it to me.

Q Did you sign anything in the grand jury room?

A I don't recall having signed anything.

THE COURT: Are you indicating that the witness signed his testimony before the grand jury?

MR. RICHMAN: No, your Honor.

THE COURT: I don't understand the question.

MR. RICHMAN: The question is withdrawn.

Q Did you mention a number of names that day to Mr. Harris and the foreman of the grand jury?

A Yes.

Q People you allegedly sold heroin to?

THE COURT: Mr. Richman, you better stand back. Your back is to the jury and I'm not sure all of them are hearing your questions.

Q Did you tell the grand jury that Mr. Del Cristo was never on your list?

A I answered the United States Attorney's questions and at this time I did not recall that I had sold heroin to Domingo Del Cristo.

55A

1 pgr3

M.Rodriguez-cross

455

2 Q Did you ever sell any heroin to Mr. Del Cristo?

3 A After this trial when the agents' inter-  
4 views came there have been other questions which have in  
5 all likelihood refreshed my memory. I have said what I  
6 more or less did to Del Cristo as far as I recall, which is  
7 what I have said in this courtroom. What I recall I  
8 have said.

9 Q You dictated 165 pages on March 22, 1972  
10 in the Nassau County Jail?

11 A Yes.

12 Q On page 30 of this translation you mention Mr.  
13 Del Cristo once out of 165 pages; is that right?

14 A It is so.

15 MR. RICHMAN: I have no further questions.

16 THE COURT: Mr. Blackett, you said you had  
17 15 minutes.

18 CROSS-EXAMINATION

19 BY MR. BLACKETT:

20 Q Mr. Rodriguez, you testified on Friday that  
21 there were three transactions engaged in at the 005 Bar  
22 involving Mr. Figueroa, is that right? With respect  
23 to those conversations it had to do with the sale of  
24 heroin, is that right?

25 A I would like that you would please begin the



56A

1 Gammage

M. Rodriguez-cross

382

2 MS. PERLMUTTER: Before we begin, your Honor,  
3 do you think we can have a five-minute recess?

4 THE COURT: We are going to conclude as soon  
5 as Mr. O'Connor finishes his cross.

6 CROSS-EXAMINATION

7 BY MR. O'CONNOR:

8 Q When for the first time did you meet Mr. Infiesta?  
9

A Around March 1970, as far as I can remember.

10 Q Where was that?

11 A At the 005.

12 Q When for the first time did you go to Mr.  
13 Infiesta's apartment?

14 A The day I met him.

15 Q Did Mr. Infiesta take you to his apartment?

16 A No, we went there a little while after he had  
17 left the 005 Bar.

18 Q Did you go to Mr. Infiesta's apartment with  
19 him?

20 A Do you mean the first time?

21 Q The first time?

22 A No.

23 Q When you went to Mr. Infiesta's apartment,  
24 was Mr. Infiesta there?

25 A Yes.

XXX

1 mcjw

M. Rodriguez-cross

383

2 Q This building that Mr. Infiesta lived in, what  
3 type of building was it?

4 A It is an apartment building.

5 Q Was it a walk-up apartment?

6 A There are elevators and stairs.

7 Q How did you get to his apartment, by elevator  
8 or did you walk up?

9 A Do you mean the first time?

10 Q The first time.

11 A I don't remember.

12 Q Did you ever take the elevator?

13 A Maybe I took it sometimes and other times I  
14 would climb the stairs. I don't remember.

15 Q Do you remember what floor he lived on?

16 A I think it was the second floor.

17 Q Do you remember what the apartment number was?

18 A No, I can't remember that.

19 Q Did you yourself ever sell any narcotics to  
20 Mr. Infiesta?

21 A No.

22 Q Do you know how many children Mr. Infiesta  
23 had?

24 A Not with certainty.

25 Q How many times all together were you in Mr.

1 mcjw

M. Rodriguez-cross

384

2 Infiesta's apartment?

3 A Several times.

4 Q By "several," how many times, about?

5 A I don't know exactly. I cannot tell you five  
6 or six or seven, but I was there several times.

7 Q Were you there more than five times?

8 A I cannot give you a precise answer.

9 Q Do you know how many rooms Mr. Infiesta had  
10 in his apartment?

11 A No.

12 Q Do you know if it was a one-room apartment?

13 A Well, I cannot give you any certainty as to the  
14 number of rooms in his apartment, but I can tell you  
15 that there was a kitchen, there was a living room and  
16 there was a room. Perhaps there were more rooms in the  
17 apartment, but I don't remember that right now.

18 Q The photographs that you looked at Friday,  
19 when for the first time did you see them?

20 A I was shown many photographs of the garage  
21 and the 005 Bar and if you could refer specifically to  
22 some photographs, I could give you a better answer.

23 MR. O'CONNOR: Excuse me. Could you speak up?

24 A I was shown different photographs of the gas  
25 station and the 005 Bar. If you could be more specific



1 mcjw

M. Rodriguez-cross

385

2 in your question, perhaps I could answer better.

3 Q When for the first time were you shown these  
4 photographs of the 005 Bar and the gas station?

5 A I think it was last year.

6 Q What month was it of last year?

7 A I don't remember.

8 Q Was it out in Pennsylvania or was it here in  
9 Mineola, Long Island?

10 A Neither in Pennsylvania nor in Mineola, Long  
11 Island. It may have been in the court in Brooklyn or  
12 here in court.

13 Q Who showed you those photographs?

14 A Federal agents.

15 Q And the other photographs of the different  
16 people in the pictures, when for the first time did you  
17 see those photographs?

18 A I have been shown many photographs. I cannot  
19 say specifically when one took place or the other.

20 Q Were you told who was in those pictures by the  
21 federal agents?

22 A No.

23 Q Do you know how many children Mr. Infiesta  
24 has?

25 MISS NELMAN: Objection.

1           mcjw                           M. Rodriguez-cross                           386

2                           THE COURT: You asked that question.

3           Q           How many felony convictions have you had?

4           A           I have been convicted for the numbers game

5           and I have been convicted in this case.

6                           MR. O'CONNOR: I have no further questions.

7                           THE COURT: We will have a recess now until

8           a quarter to two for lunch.

9                           (The jury left the courtroom)

10                          THE COURT: May the Court have some idea of

11           how long the cross-examination will last, so that Miss

12           Neiman will have witnesses available this afternoon if

13           you finish before 4:30?

14                          MR. RICHMAN: Not more than ten minutes.

15                          MS. PERLMUTTER: Forty minutes on behalf of

16           Mr. Busigo-Cifre.

17                          MR. FRANKEL: Twenty minutes to a half hour,

18           your Honor.

19                          MR. JACOBS: I would estimate the same, about

20           twenty minutes to a half hour.

21                          MR. BLACKETT: I believe about fifteen, twenty

22           minutes.

23                          MRS. SOLLEDER: Twenty minutes to a half hour.

24                          MR. ECHEVARRIA: From thirty minutes to forty-

25           five minutes.

Gonzalez-direct

mcjw

1  
2 A I don't remember the times of day exactly,  
3 but I remember having taken the money with him.

4 Q Will you tell us what happened?

5 A He and I took the money to an address around  
6 187th Street. We used to park the car in front of the  
7 building. He would go inside by himself to deliver  
8 the money.

9 Q Did he ever tell you to whom he was delivering  
10 the money?

11 A Yes.

12 Q What did he say?

13 A He told me that he was delivering the money  
14 to Mr. Roberto Arenas.

15 Q Did you ever meet Roberto Arenas during this  
16 time period?

17 A No.

18 Q Mr. Gonzalez, going back to the first week  
19 after March 12, 1970, could you tell us who you spoke  
20 to during this week about this shipment of heroin?

21 A One of the first people I spoke with was Mr.  
22 Charles Busigo, with Mr. Domingo Del Cristo and later  
23 on I spoke again with the man I know as Lazarito. I  
24 also spoke with Jose Otero, Pepe Otero.

25 Q Mr. Gonzalez, before you mentioned that you



1 me: jw  
2 Gonzalez-direct  
3 had cut heroin in Mr. Infiesta's house. Do you recall  
4 that testimony?

5 A Yes.

6 Q Do you remember what day that was?

7 A On March 13, early in the morning.

8 Q Do you know who brought that heroin to Mr.  
9 Infiesta's apartment?

10 MR. O'CONNOR: Objection, your Honor. He is  
11 leading the witness.

12 THE COURT: Overruled.

13 A Raul Ortega and myself.

14 Q Do you recall how much heroin there was?

15 A Yes.

16 Q How much was it?

17 A Seven kilos.

18 THE COURT: I am getting mixed up. The morn-  
19 ing of March 13th; is that it?

20 MISS NEIMAN: Yes, your Honor.

21 THE COURT: You are retracing your steps  
22 chronologically; is that correct?

23 MISS NEIMAN: Starting out now to go through  
24 each of the transactions with each of the defendants.

25 THE COURT: He says he brought --

MISS NEIMAN: I am starting with Mr. Infiesta.

mcjw

Gonzalez-direct

1 THE COURT: How many kilos?

2 THE WITNESS: Seven kilos, your Honor.

3 THE COURT: How did it get there?

4 THE WITNESS: Ortega and I brought it there.

5 MS. PERLMUTTER: I didn't get the date.

6 MR. FRANKEL: The 13th.

7 THE COURT: Early in the morning of March 13th.

8 Q Who was present at Mr. Infiesta's apartment  
9 when you brought that heroin there?10 A Jorge Infiesta, Raul and myself, and a few  
11 minutes later Luis Reyes arrived and after that Miguel  
12 Rodriguez arrived.13 Q Would you tell us what you did in Mr. Infiesta's  
14 apartment?15 A We mixed the heroin and out of the seven kilos  
16 we made eight kilos and about nine ounces.17 Q Will you tell us what happened to those  
18 eight kilos and nine ounces?19 A Raul Ortega took seven kilos with him and  
20 told me that he had to deliver them to Mr. Roberto Arenas.  
21 The next kilo was sold right there to Mr. Jorge Infiesta  
22 and Mr. Reyes, and in order not to keep it in the house  
23 they put it in a black car that was parked in front of  
24 Jorge's house. The remaining ounces Raul took them back  
25 with him to New Jersey.

64A

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

mcjw

Gonzalez-direct

892

THE WITNESS: The time around March when  
we are discussing this heroin.

Q Will you identify him, please?

A Yes (indicating). The man with the hand in  
his mouth.

MR. RICHMAN: I concede the identification.

Q Did there come a time when you discussed this  
shipment of heroin with Domingo Del Cristo?

A Yes.

Q Would you tell us when this was?

A It was in March 12th in the back of the park-  
ing lot at Joaquin Prada's gas station.

Q Would you tell us if you recall what time of  
day this was?

A I do not remember the time.

Q Who else was present?

A There was a man there by the name of Jose  
Delgado, himself and myself. Miguel was at a short  
distance from us and it seems that prior to that Miguel  
had spoke with him about it.

MR. RICHMAN: I object to what Miguel may  
have said to Mr. Del Cristo.

THE COURT: He didn't say what he said.

MR. RICHMAN: He said prior to that Miguel had



1 mcjw

Gonzalez-direct

893

2 spoken to him.

3 THE COURT: Your objection was as to what he  
4 said to him. He didn't say what he said to him.

5 Q Did Mr. Del Cristo tell you that he had spoken  
6 to Miguel or did Miguel tell you that he had spoke to  
7 Mr. Del Cristo?

8 A No, Miguel told me that he had spoken with  
9 Domingo Del Cristo.

10 Q Incidentally, Mr. Gonzalez, what connection  
11 did Mr. Delgado have with the gas station?

12 A He said that part of the gas station belonged  
13 to him and part to Joaquin Prada.

14 Q Will you tell us what the conversation was  
15 between you, Mr. Del Cristo and Delgado with respect to  
16 this shipment of heroin?

17 A Mr. Delgado took no part in the conversation  
18 about heroin. Mr. Del Cristo and I did speak about it  
19 and there came a moment when Miguel joined us.

20 Q What was the conversation?

21 A Miguel was the one who told me that Domingo  
22 Del Cristo was interested in buying half a kilo of  
23 heroin and I told him that if he had the money that  
24 would be all right. Miguel told me that that was not  
25 the case; that he would have to give him the heroin and

66A

1 mcjw Gonzalez-direct 394

2 wait for two days for the payment but that he didn't  
3 think there would be any problem with it.

4 Q Did you make any arrangements during this  
5 conversation for the delivery of any heroin?

6 A Yes.

7 MR. RICHMAN: Your Honor, I object to this  
8 entire line of questioning insofar as it refers to the  
9 defendant Del Cristo on the grounds that it is pure  
10 hearsay and that he is referring to a Miguel who I assume  
11 will be identified later as having allegedly handled the  
12 transaction with defendant Del Cristo.

13 Now, unless he can tell us that he had handled  
14 the transaction directly with Del Cristo, I maintain that  
15 anything else is certainly not binding on my client, pure  
16 hearsay and ought to be stricken from the record, if it  
17 please the Court.

18 She can ask him "Did you sell him?" It is  
19 as simple as that. And "Did he pay?"

20 THE COURT: I'm sorry. The government is  
21 not limited to just asking that question. As you well  
22 know, hearsay statements come in in a conspiracy case  
23 in certain situations. Both Miguel whom everybody  
24 knows is Rodriguez, Mr. Richman, and the witness and  
25 your client are named as co-conspirators.

67A

1 mcjw

Gonzalez-direct

895

2

MR. RICHMAN: I appreciate that, your Honor,

3

but we would like to get the story from this witness:

4

Did he sell any heroin to Del Cristo.

5

THE COURT: You can ask him that on cross-

6

examination, if you wish.

7

MR. RICHMAN: Certainly he knows best. He

8

was there. I wasn't.

9

THE COURT: You can't tell the assistant how

10

she should ask her questions.

11

MR. RICHMAN: I don't propose to do that.

12

THE COURT: You certainly do and I am over-

13

ruling your objection.

14

MR. RICHMAN: Exception.

15

Q Mr. Gonzalez, have you in the last few minutes

16

been relating a conversation between you and Mr. Rodriguez

17

and Mr. Del Cristo in the parking lot of Joaquin Prada's

18

gas station?

19

A Yes.

20

Q Did you, Mr. Del Cristo and Mr. Rodriguez

21

arrange for the delivery of half a kilogram of heroin?

22

A Yes.

23

Q What were those arrangements?

24

A We agreed to deliver it the following day.

25

We made all the arrangements for the delivery of half a



68A

mcjw

Gonzalez-direct

396

1 kilo and we coordinated everything so that within two or three minutes we would make both deliveries, that is, the heroin that we had sold to Mr. Busigo and the heroin that we would sell to Mr. Del Cristo.

Q On the following day, March 13th, did you deliver a half a kilogram of heroin to Mr. Del Cristo?

A Yes.

Q Would you tell us now that delivery took place?

A Yes. First of all, we delivered half a kilo of heroin to the man that now I know by the name of Oasis Valido. That was in the corner on the street to the side of Prada's gas station. We went into the parking lot of the gas station and we parked in front of a driveway that leads to the back of the gas station. Miguel got off the car and gave the package to Domingo Del Cristo in the driveway.

Q Can you tell us when in relation to this delivery was the delivery made to Mr. Echevarria in the grocery store?

A From there we went directly to Mr. Echevarria's supermarket.

4  
1  
parl

Gonzalez-direct

2 Q Did there come a time when Mr. Del Cristo  
3 paid for this half kilo of heroin?

4 A Yes.

5 Q Will you tell us in what manner he paid?

6 A Mr. Domingo Del Cristo had many problems  
7 to pay us, but he would make sporadic payments to Miguel,  
8 \$600 one day, \$700 another day, until the time came when  
9 his debt was \$1800. I spoke with him and I told him  
10 that it had taken him a long time and I needed that  
11 money because the money was not mine. That conversation  
12 took place at the bar, El Gallo de Maron. And Raul  
13 Ortega was there, Roberto Lopez was there, Miguel, and  
14 myself.

15 Q Was Mr. Del Cristo there?

16 A Yes.

17 Q Would you tell us what the rest of the  
18 conversation was?

19 A Mr. Del Cristo was trying to obtain an  
20 additional half kilo of heroin but I did not want to --

21 Q What was the conversation?

22 A So Miguel spoke to Raul.

23 Raul called me aside to the men's room and he  
24 told me that Domingo Del Cristo was a friend of his for  
25 many years and that they had dealings on other occasions

70A

899

1 pgr2 Gonzalez-direct

2 and Mr. Del Cristo had paid his share, so since Raul was  
3 the owner, he authorized Miguel to give Del Cristo a half  
4 kilo of heroin.

5 Q Was any money paid to you at that meeting at  
6 the Gallo de Maron Bar?

7 A YES, sir.

8 Q Tell us who paid that money to you.

9 A Mr. Roberto Lopez and Domingo Del Cristo used  
10 to work as partners sometimes. Roberto called me and  
11 told me so there would be no more talking about the money  
12 that he himself from his own personal money was going to  
13 give me the \$1800.

14 He went into a small office in the back of the  
15 bar with the owner of the bar. He came back with the  
16 money and gave it to me in front of everybody else.

17 MR. RICHMAN: Your Honor, who is the "he"  
18 referred to in the last answer?

19 THE COURT: Lopez.

20 MR. RICHMAN: Thank you.

21 Q Do you know whether or not Mr. Rodriguez  
22 delivered the second half kilo to Domingo Del Cristo?

23 A Yes.

24 Q How do you know whether he did or not?

25 A Because Miguel told me so and Raul told me.



71A

1 pg7

Gonzalez-cross

1055

2 MR. ECHEVARRIA: About an hour, your Honor

3 THE COURT: You better have some witnesses ready  
4 tomorrow afternoon.

5 MISS NEIMAN: We do have them, your Honor.

6 (Recess.)

7 (Jury in box.)

8 THE COURT: Mr. O'Connor, you may proceed.

9 CROSS EXAMINATION

10 BY MR. O'CONNOR:

11 Q Mr. Gonzalez, my name is John O'Connor, and I  
12 represent Jorge Infiesta.

13 When was the first time you met Mr. Infiesta?

14 A Approximately in 1961.

15 Q Was that Cochino Bay in the invasion of Cuba?

16 A Yes, sir.

17 Q Were you in prison with Mr. Infiesta in Cuba?

18 A Yes, sir.

19 Q For how long?

20 A Approximately 22 months.

21 Q Are you still friends with Mr. Infiesta?

22 A Yes.

23 Q Was Mr. Infiesta present in 1970 when that  
24 Buick Skylark was bought you testified about on direct  
25 examination?

72A

1 pg9

Gonzalez-cross

1056

2 A I don't remember that Mr. Infiesta was in  
3 the buying of the car.

4 Q How many times have you been at Mr. Infiesta's  
5 house?

6 A I would like you to repeat that because I  
7 don't think I have told you everything.

8 Q I would like to have you answer the question.  
9 How many times have you been to Mr. Infiesta's  
10 house?

11 A Several times.

12 Q When was the first time you were there?

13 A The second day after arriving in New Jersey.

14 Q What date was that?

15 A 12th of March, 1970.

16 Q Were you also there on the 13th of March,  
17 1970?

18 A Yes.

19 Q On the 12th of March, 1970, was Mr. Infiesta  
20 present in the apartment?

21 A Yes.

22 THE COURT: Was Infiesta present on March 12?

23 MR. O'CONNOR: Yes.

24 Q Who else was present on March 12?

25 MISS NEIMAN: He said March 12.

pg9

Gonzalez-cross

1057

THE COURT: The dates are getting mixed up.

On March 12 the witness says he was at

Mr. Infiesta's house. Who was present?

Q Who was present?

A Raul Ortega, Jorge Infiesta, and Infiesta's wife  
and myself.

THE COURT: On March 13 --

Q On March 13, 1970, you were present in Mr.  
Infiesta's house?

A Yes.

Q Who was present on March 13?

A Jorge Infiesta, Raul Ortega, myself, and a  
few minutes later Luis Reyes arrived, and later Miguel  
arrived.

Q Were you also at Rankin Street on that date,  
the 13th of March?

MRS. HUGHS: He is asking me to tell exactly  
the order in which the lawyer says the question, exactly  
the order of the words, because he says he understands  
enough English and he notices I turn the phrase the other  
way, which doesn't make any difference.

MR. JACOBS: Your Honor --

THE COURT: Wait.

Mrs. Hughes, change places with Mrs. Tolmach.



74A

pg10

Gonzales-cross

1059

(Pause.)

Q On the 13th of March did you go to Rankin Street in Elizabeth, New Jersey?

A Yes.

Q Did you go the Rankin house first or did you go to Mr. Infiesta's house first?

A Rankin Street.

Q You mentioned you brought narcotics to Infiesta's apartment?

A I and Raul brought 7 kilos to Infiesta's house.

Q Have you been convicted of any felonies?

THE COURT: We have been in to that.

Q When did you come to the United States?

A Between February and March. I'm not sure of the date. In 1960.

Q Have you ever been deported from the United States?

A No.

MR. O'CONNOR: I have no further question.

CROSS EXAMINATION

BY MR. JACOBS:

MR. JACOBS: With the Court's permission, I would like to examine this witness in the English language.

THE COURT: No.

1 mcjw

2 on trial and Rodriguez and Gonzalez were testifying.  
3 What would you think?

4 I am going to tell you another thing, ladies  
5 and gentlemen. I don't know how long you are going to  
6 deliverate. You've got a lot of defendants and a lot  
7 of charges and there may come a time when you grow weary  
8 and you stand divided. I don't care how you stand one  
9 way or the other. You took an oath here and I ask you,  
10 whatever your oath is and whatever your standing is for  
11 guilt or innocence -- now I speak as an attorney for  
12 all attorneys -- don't surrender that verdict either  
13 way simply because you want to get home.

14 I thank you.

15 MR. O'CONNOR: Your Honor, fellow lawyers,  
16 Miss Neiman, Mr. Kaufman, Mr. Foreman, ladies and gentle-  
17 men of the jury:

18 It now comes my time to come before you to  
19 sum up the case on behalf of the Jorge Infiesta. Let us  
20 look at the whole picture from the beginning. We won't  
21 take too much of your time because this has been a long  
22 trial, but I would like to say these few words and get  
23 them to you as clearly as I can.

24 On his opening Mr. Kaufman stated and he  
25 pointed to a chart and said that Mr. Infiesta was a

mcjw

2076

1 distributor and a customer and these were just words.  
2  
3 These words were just words of Mr. Kaufman. They never  
4 were proven beyond a reasonable doubt on the trial. The  
5 only witnesses that they had to say anything was Mr.  
6 Gonzalez and Mr. Rodriguez.

7 Mr. Rodriguez testified here for a few days  
8 and on the question of "Did Mr. Infiesta ever buy any  
9 narcotics from you," which he was asked by me -- and on  
10 page 383, line 19 on cross-examination his answer was  
11 "No."

12 Mr. Infiesta never bought any narcotics.  
13 This was all centered around the date of March 13, 1973  
14 when they were supposed to be at Infiesta's house, and  
15 I will quote the minutes of the trial -- Gonzalez gave  
16 a different story than Rodriguez. Gonzalez said, and  
17 this is the question:

18 "Q Who was present at Mr. Infiesta's  
19 apartment when you bought that heroin there?

20 "A Jorge Infiesta, Raul and myself and  
21 a few minutes later Luis Reyes arrived and after that  
22 Miguel Rodriguez arrived."

23 Rodriguez was present at the same time Gonzalez  
24 was present, yet the fact was one man tells a different  
25 story, Rodriguez. He says, "No, Mr. Infiesta never



77A

2077

1 mcjw

2 purchased any narcotics. Whereas Gonzalez said that  
3 there was seven kilos and out of the seven kilos there  
4 they diluted it and made eight kilos and nine ounces  
5 and from that they said that Infiesta purchased one.  
6 Yet both men at the same time being there have a different  
7 story.

8 I go on to say that Mr. Gonzalez and Mr.  
9 Rodriguez got together as it was shown on page 508 where  
10 the question was asked "Anybody else?" This question  
11 was asked of Rodriguez, if he ever spoke to Gonzalez.  
12 He said, "I have spoken to Ramiro Gonzalez about this  
13 case."

14 "Q Where?

15 "A In Nassau County at the bull pen."

16 These two fellows got together and they  
17 fabricated a story. They wanted a story so they could  
18 get their time reduced, which has been proven in one  
19 case, that Gonzalez got his time reduced from ten years  
20 to six years. Rodriguez wanted him time reduced. They  
21 would do anything, tell any kind of story just to get  
22 out of jail. They would sell anybody down -- forgive  
23 the expression -- down the river just to be released.  
24  
25

3/15  
Ortega  
72am

2078 86A

pgkl

The government will argue on their summation, either by Mr. Kaufman or Miss Weiman, that there were many telephone calls made from the house of Luis Reyes who was mentioned in this trial. The government has been trying to put forth the idea that he was a partner of Infiesta. They're going to say by records there were many calls, a number of calls, made in April and May of 1970, from Reyes' house in Florida to Mr. Infiesta's house. This does not prove anything. Telephone calls don't prove anything.

The best evidence is the witness himself to come forth and for the witness to say what actually transpired on the telephone.

If they wanted to use a telephonic tape to record the conversation, fine, but they will use anything. They will use guilt by association to try to convict Mr. Infiesta. They used the association of two convicted felons, Rodriguez and Gonzalez.

What do we know about the two? We could line them up together.

Rodriguez is a man who stated he loan-sharked in Cuba. He was also in the business of spying and selling and stealing cars. He was also in the business of purchasing and selling narcotics in large scale. He has no qualms about testifying falsely to anything.

1 pgk2

2 What about Gonzalez? He's another convicted man.  
3 He was deported. He gets up on the stand and tells dif-  
4 ferent versions of different stories. He denies or doesn't  
5 remember for some 150 times or more.

6 What does he say? Hesays that Mr. Infiesta was  
7 with him when the so-called heroine was mixed in Mr.  
8 Infiesta's apartment. What do we say? We say it is a  
9 belief. We believe Rodriguez even though Rodriguez is  
10 a convicted felon. We say that there was no happening in  
11 Infiesta's apartment whatsoever.

12 We have to trace it back and find out where  
13 Gonzalez knows Mr. Infiesta from.

14 He stated he knew him from the Bay of Pigs. This  
15 goes back to the Bay of Pigs. He doesn't know him from  
16 dealing in narcotics as he maintains here in the court.

17 Another thing, Rodriguez stated that Infiesta  
18 was there when Ortega bought a 1970 Skylark but Gonzalez  
19 had a different story. He stated he was not with Ortega  
20 when the Buick was purchased.

21 Going into the law enforcement, of all the law  
22 enforcement officers that testified before you, not one  
23 of them could say that Infiesta purchased or sold any  
24 narcotics, not one of them. We are surely going to give  
25 a law enforcement officer a lot more credit in his testimony



1 pgk3

2 than we would to a man like Gonzalez.

3 Officer McElynn came before you and he was asked  
4 by Ms. Perlmutter on cross examination, this is the night  
5 they were to purchase for the sum of \$25,000, a kilo of  
6 heroine. This was sometime around March 13, March 12 or  
7 March 13, -- he was on surveillance of the other two agents  
8 that were Angioletti and Miller -- I am not sure of the  
9 other name -- they testified that at no time was the obser-  
10 vation that Gonzalez said that they left Prada's garage  
11 with the \$25,000 and went to Infiesta's house. McElynn said  
12 no such thing. He said he waited and watched until 9:30  
13 when he saw Rodriguez leave in the car and Rodriguez left  
14 for his home in Westbury, Long Island.

15 The only evidence that the government could put  
16 forth was from the mouths of Rodriguez and Gonzalez. That  
17 is evidence that is based more or less on what they say and  
18 nothing else. No corroboration, no narcotics to show,  
19 no proof whatsoever, aside from those two individuals, and  
20 one individual says no. He said there was no narcotics  
21 ever purchased, ever purchased by Infiesta. That was  
22 Rodriguez.

23 Gonzalez however said there was a purchase made  
24 by Infiesta, but he didn't sell it to Infiesta himself. He  
25 sold it to Mr. Infiesta and Mr. Luis Reyes. He would not

1 pgk4

2 even say he gave it individually to Mr. Infiesta. It was  
3 to two people.

4 When you go into the jury room, each individual  
5 should think for himself. I am only saying that as a  
6 suggestion because you each have your own minds and own  
7 thoughts on the situation.

8 Mr. Infiesta here is innocent until proven beyond  
9 a reasonable doubt guilty, and I maintain you should  
10 maintain the same principle. The Court will charge on the  
11 law what a reasonable doubt is. I will not go into it  
12 at this moment.

13 Remember, you could be sitting in the same chair  
14 as Mr. Infiesta because somebody else said something, some-  
15 body else said you did sell narcotics. Why do these people  
16 come around and say these things? They say them because  
17 they want to get something from it, and that's a release  
18 from their confinement in jail.

19 I can honestly and truthfully say that Mr.  
20 Infiesta, a man of 43 years of age, is hard-working, pres-  
21 ently employed, the father of two children --

22 MISS NEIMAN: Objection.

23 THE COURT: There is no testimony in this record  
24 to justify that statement.

25 MR. O'CONNOR: I say that Mr. Infiesta stands

1 pgk5

2 before you and he maintains his innocence. I wish you would  
3 give him credit beyond a reasonable doubt and find him  
4 not guilty.

5 Thank you.

6 MS. PERLMUTTER: Your Honor, Miss Neiman, Mr.  
7 Kaufman, my colleagues at the bar, Mr. Foreman, ladies and  
8 gentlemen of the jury:

9 When I addressed you at the opening of this case  
10 I had said to you it was my privilege to speak to you on  
11 behalf of my client Charles Busigo-Cifre. It is now my  
12 duty to speak to you on his behalf again.

13 Before I begin to address you as to what I believe  
14 the evidence in this case is, I would like to thank his  
15 Honor who graces the bench for his patience in this case,  
16 and I would like to thank you for your fortitude.

17 In the opening remarks in this courtroom you  
18 had taken a solemn oath. You had sworn that you, sitting  
19 here, would search for the truth and by searching for the  
20 truth you would look for a reasonable doubt, that you would  
21 accept the law as his Honor gives it to you, and the law as  
22 his Honor gives it to you is the same in this case as in  
23 every case in which a man is charged with a crime, and that  
24 is that if you have a reasonable doubt as to the guilt of  
25 a defendant you must acquit him. You must say he is not



Mitchell

85A

PGjw

2345

UNITED STATES OF AMERICA

v.

74 Crim. 18

RAUL ORTEGA-ALVAREZ, et al.

March 12, 1974

10:20 A.M.

(Trial resumed - jury present)

C H A R G E

THE COURT: Mr. Jerry and Ladies and Gentlemen of the Jury:

We have now reached the point in this trial where you are about to enter upon your final function as jurors, which is, of course, one of the sacred duties of citizenship. You have given careful attention to the evidence during the course of the trial, and I am certain that you will conduct your deliberations in the same fine spirit that you have so far displayed and with impartiality and fairness reach a just verdict in this case.

In our court system the functions of the judge and the functions of the jury are clearly defined. It is my duty to instruct you as to what the law is; it is your duty to accept the law as I state it to you. Just as I am the exclusive judge of the law, so you are

1       ngiw  
2       the exclusive judges of the facts. You alone determine  
3       the credibility of the witnesses, and the weight, effect  
4       and value that should be given to their testimony. It is  
5       up to you to determine from the evidence which you have  
6       heard what the facts are in this case, and from those  
7       facts decide whether ~~a~~ **a** defendants **has** violated the  
8       law.

9               This is a criminal prosecution in which the  
10       government is one party and the defendants are the others.  
11       The fact that the government is a party entitles it to  
12       no greater and to no lesser consideration than any other  
13       party. It is entitled to the same consideration as  
14       given to the defendants, no more and no less.

15              This case must be decided within the scope  
16       of the charges against each defendant as contained in  
17       the indictment, but before discussing the law applicable  
18       to the charges of the indictment, let us consider some  
19       general principles which apply to every criminal case.

20              An indictment itself is not evidence. It  
21       merely describes the charges made against a defendant  
22       and may not be considered by you as evidence of the guilt  
23       of a defendant. Nor can the fact that a grand jury has  
24       found this indictment in any way detract from the presump-  
25       tion of innocence with which the law surrounds a defendant

1 pgjw

2 unless and until his guilt is proved beyond a reasonable  
3 doubt.

4 As a result of my rulings on motions, the  
5 charges against defendant Rosal-Rodriguez contained in  
6 Counts 1 and 13 have been withdrawn from your consideration.

7 Similarly, the charge against Hugo Viera  
8 contained in Count 9 has been withdrawn from your con-  
9 sideration. These dispositions should not be considered  
10 or discussed by you, or influence you, in any way in  
11 passing upon the guilt or innocence of Hugo Viera on  
12 Count 1 of the indictment, or the guilt or innocence  
13 of any of the other defendants on the counts in the  
14 indictment which are being submitted to you for your  
15 determination.

16 Orlando Gil has admitted that he plead guilty  
17 to violation of the narcotics laws involving this trans-  
18 action. Here, again, you may not consider his plea in  
19 any way in passing upon the guilt or innocence of any  
20 defendant who is presently on trial.

21 Similarly, the fact that Carlos Tabanes and  
22 Joaquin Prada who are named as defendants in the indict-  
23 ment but are not being tried at this time should have  
24 no bearing whatsoever on your disposition of the charges  
25 which are being submitted to you.



88A

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

by jw

2343

The government has been unable to arrest a number of other defendants named in this indictment, and their cases are not being submitted to you. They are Luis Reyes, Jose Sarria, Francisco Perez, Jose Ramirez Ramos, and Roberto Lopez. Again, I caution you that their absence should not be considered in any manner in determining the guilt or innocence of a defendant who is standing trial.

Each of the ten counts which you will consider alleges the commission of a separate and distinct offense. It will be necessary for you to reach a verdict of guilty or not guilty as to each of the defendants separately on each of the counts of the indictment in which he is named. You must consider and weigh the evidence separately as to each defendant in each count. The fact that you may find one of the defendants guilty or not guilty of one of the offenses charged should not control or influence your verdict with respect to any other defendant or any other offense charged.

Each defendant has denied the charges in the indictment. By his plea of not guilty, each defendant has put into issue every material fact alleged in the accusations brought against him. Accordingly, the government having made the charge has the burden of proving

89A

1       page  
2       beyond a reasonable doubt each material element of each  
3       count of the indictment. This rule applies to each  
4       defendant individually as to each of the charges in the  
5       indictment in which he is named. This burden of proof  
6       never shifts. It remains with the government throughout  
7       the entire trial and during your deliberations as jurors.

8               A defendant does not have to prove his  
9       innocence. He is presumed to be innocent, and this pre-  
10      sumption is overcome only when you reach a conclusion  
11      from the evidence that his guilt has been established  
12      beyond a reasonable doubt.

13             What is meant by a reasonable doubt? There  
14      is nothing mysterious about the term. It means, as the  
15      words themselves indicate, a doubt based upon reason and  
16      common sense which arises after consideration of all the  
17      evidence. Reasonable doubt is a doubt which would cause  
18      reasonable persons to hesitate to act in matters of  
19      importance to themselves. It is not a vague, speculative,  
20      imaginary something, and a person may not be convicted  
21      on mere suspicion or conjecture.

22             On the other hand, a reasonable doubt does  
23      not exist merely because a juror does not wish to perform  
24      an unpleasant duty.

25             A reasonable doubt may arise not only from

90A

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

eggy 2350  
the evidence produced, but also from a lack of evidence.

A defendant may also rely upon evidence brought out on cross-examination of any of the witnesses who have testified on behalf of the government. He may attempt to raise a reasonable doubt in your minds as to the existence of one or more of the essential elements of the crime without affirmatively presenting his version of all or any of the facts. This is so because the law does not impose upon a defendant a duty to produce any evidence.

The law does not compel a defendant to take the witness stand and testify and no presumption of guilt may be raised, and no inference of any kind may be drawn, from the failure of a defendant to testify.

Now, it is not necessary for the government to prove the guilt of a defendant beyond any possible doubt. Proof is usually not a matter of mathematical or absolute certainty. In the nature of things it cannot be; but to sustain a conviction there must be such proof as satisfies your reason as intelligent people beyond any reasonable doubt that a defendant is guilty as charged. If you do not have a reasonable doubt of a defendant's guilt as to the material elements of a charge, then you should return a verdict of guilty on that count. If,



91A

1 ngjw 2351  
2 on the other hand, you do have a reasonable doubt as to  
3 a defendant's guilt as to any of the material elements  
4 of the crime charged, then you must return a verdict of  
5 not guilty as to that count.  
6  
7 If the evidence is susceptible of two inter-  
8 pretations, each of which appears to you to be reasonable, one  
9 of which points to the guilt of the defendant and the  
10 other to his innocence, it is your duty under the law  
11 to adopt that interpretation or conclusion which will  
12 admit of the defendant's innocence and reject that which  
13 points to his guilt.

14 Now the first count of the indictment is the  
15 conspiracy count. It charges that from on or about  
16 December 1st, 1969 until April 30th, 1971, Ortega, Mr.  
17 and Mrs. Calana, Reyes, Infiesta, Prada, Echevarria,  
18 Busigo-Cifre, Del Cristo, Alvarez, Viera, Sarria, Otero,  
19 Perez, Gil, Figueroa, Rosal-Rodriguez, and Ramirez Ramos,  
20 Lopez, Aguilera and Tabanes, unlawfully, knowingly, and  
21 wilfully conspired with each other, and with Ramiro Gonzalez  
22 and Miguel Rodriguez and others to the grand jury known  
23 and unknown, to violate Sections 172 and 174 of Title 21  
24 of the United States Code.

25 We are specifically concerned here with  
Section 174 which makes it a crime for any person to

92A

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

2352  
receive, conceal, buy, or sell, or in any manner facilitate  
the transportation or concealment or sale of any narcotic  
drug after being imported or brought into the United  
States knowing the drug to have been brought into the  
United States contrary to law.

What is a conspiracy? It is a combination  
or agreement of two or more persons by concerted action  
to accomplish a criminal or unlawful purpose, and one  
or more of the persons who are members of the conspiracy  
does any act to effect or further the object of the con-  
spiracy.

It is a partnership in criminal purposes in  
which each member becomes the agent of every other member  
and is a crime in itself.

To prove a conspiracy here, the evidence must  
show beyond a reasonable doubt the existence of each one  
of the following elements:

First, that the conspiracy described was  
formed and existing at or about the time alleged:

Second, that it was part of the conspiracy  
to receive, conceal, possess, buy, sell, and facilitate  
transportation, concealment and sale of large quantities  
of narcotic drugs, to wit, heroin, after such narcotic  
drugs had been imported and brought into the United States

1 pgjv

2353

2 contrary to law, knowing that the said narcotic drugs  
3 had been imported and brought into the United States  
4 contrary to law.

5 Third, a material element is that a defendant  
6 knowing and wilfully became a member of the conspiracy;

7 Fourth, that one of the conspirators there-  
8 after knowingly committed at least one of the overt acts  
9 charged in the indictment at or about the time and place  
10 alleged; and

11 Fifth, that such overt act was committed in  
12 furtherance of some object or purpose of the conspiracy  
13 as charged.

14 As to the formation of a conspiracy, it is  
15 not necessary that there be proof that the participants  
16 met together and entered into a formal or written agree-  
17 ment or that they directly stated between themselves  
18 what their object or purpose was to be, or the details  
19 of the plans, or the means by which the purpose was to  
20 be achieved. Indeed, it would be extraordinary were the  
21 members of a conspiracy to set forth all the actual  
22 details of their arrangement in a formal and written  
23 agreement. When persons, in fact, embark together upon  
24 a criminal conspiracy, much is often unexpressed, much  
25 is left to unwritten understanding. Generally, such a



94A

pgjw

contrary to law, knowing that said narcotic drugs had been imported and brought into the United States contrary to law.

Third, that a defendant knowing and wilfully became a member of the conspiracy;

Fourth, that one of the conspirators thereafter knowingly committed at least one of the overt acts charged in the indictment at or about the time and place alleged; and

Fifth, that such overt act was committed in furtherance of some object or purpose of the conspiracy as charged.

As to the formation of a conspiracy, it is not necessary that there be proof that the participants met together and entered into a formal or written agreement or that they directly stated between themselves what their object or purpose was to be, or the details of the plans, or the means by which the purpose was to be achieved. Indeed, it would be extraordinary were the members of a conspiracy to set forth all the actual details of their arrangements in a formal and written agreement. When persons, in fact, embark together upon a criminal conspiracy, much is often unexpressed, much is left to unwritten understanding. Generally, such a

95A

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

pgjw 2354  
criminal conspiracy is a matter of inference deduced from  
the acts and statements of the alleged conspirators.

What the evidence must show in order to  
establish that a conspiracy existed is that the members  
in some way or other, positively or tacitly, came to a  
mutual understanding to engage in a common unlawful  
agreement to violate Section 174 of the Federal Narcotics  
Laws which I have just described for you.

B3

All of the members need not have joined at  
the inception of the agreement, and I will discuss this  
point more fully with you later on. In determining whether  
or not there was such an unlawful agreement, you may  
judge the acts and conduct of each of the alleged con-  
spirators as a whole and the reasonable inferences to  
be drawn from such evidence.

An unlawful agreement may exist even though  
the individual conspirators may have done some acts in  
furtherance of the common unlawful purpose apart from,  
or unknown to, the others.

Proof of several separate and independent  
conspiracies is not proof of the single overall conspiracy  
charged in the indictment unless one of those conspiracies  
proved is the single conspiracy charged in the indictment.

What you must determine as to this element

96A

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

begin 2355  
is whether the conspiracy charged in the indictment  
existed between two or more of the alleged conspirators.  
If you find that no such conspiracy existed, then you  
must acquit all of the defendants on Count 1.

In determining whether the alleged conspiracy  
exists, you may consider what the evidence shows as to  
changes in personnel and activity. You may find a single  
conspiracy even though there were changes in personnel  
or activities, provided that you find that some of the con-  
spirators continued throughout the life of the conspiracy  
and that the purpose of the conspiracy continued to be  
that charged in the indictment. The fact that the parties  
are not always identical does not mean that there are  
separate conspiracies. In other words, if at all times  
the alleged conspiracy had the same overall primary pur-  
pose and the same nucleus of participants, the conspiracy  
would be the same basic scheme even though in the course  
of its operation additional conspirators joined in and  
performed additional functions to carry out the scheme  
while others were not active or had terminated their  
relationship.

If you satisfy yourselves beyond a reasonable  
doubt that the conspiracy as alleged in the indictment  
existed, then you must determine as to each defendant



1        ngjw  
2        as to whether he or she knowing and wilfully was an active  
3        participant in the unlawful plan with the intention of  
4        furthering its objectives. Mere knowledge of an illegal  
5        act on the part of some other alleged co-conspirator is  
6        not sufficient. Merely acting in a way which incidentally  
7        furthers the purpose of the conspiracy without knowledge  
8        that a conspiracy exists does not make a person a member  
9        of the conspiracy.

10        You may find that a defendant acted knowingly  
11        and wilfully if he acted voluntarily and purposely and  
12        with specific intent to do something which the law forbids.  
13        That is to say that he must have acted with evil motive  
14        or bad purpose to disobey or to disregard the law and not  
15        because of negligence, mistake, inadvertance or other innocent

16        It is obviously impossible to ascertain or  
17        prove directly what a person knew or intended. You cannot  
18        look into a person's mind and see what his intentions  
19        were or what he knew. But a careful and intelligent  
20        consideration of the facts and circumstances shown by  
21        the evidence in any given case as to a person's actions  
22        and statements enables us to infer with a reasonable  
23        degree of certainty and accuracy what his intentions  
24        were in doing or not doing certain things and the state  
25        of his knowledge.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

pgjv

2357

In order for you to find that a particular defendant was a member of the conspiracy charged in the indictment, you must find that **that** defendant knew what its unlawful purpose was and that he had a stake or personal interest in it as distinguished from acting exclusively on his own. The scope of each defendant's agreement must be determined individually from what was proved as to that defendant.

In order for a defendant to be held for joining others in a conspiracy, he must in some sense promote their venture himself or make it his own.

Thus, it becomes essential for you to determine just what a defendant was promoting and making his own. In this regard, it is not required that each of the conspirators participate in or have knowledge of, all of the conspiracy's operations. The guilt of a conspirator is not governed by the extent of his participation: he need not know all of the alleged conspirators.

Even if a defendant participated in the conspiracy to a degree more or less than that of his fellow conspirators, or in a relatively subordinate or minor way, he is equally culpable as long as he became a member of the conspiracy with knowledge of its general scope or purpose.

1 ngiw

2352

2 Now, a single act of a defendant, such as  
3 a purchase of heroin from a member of a conspiracy, may  
4 be sufficient to draw that defendant within the ambit of  
5 the conspiracy. However, since conviction for conspiracy  
6 requires an intent to participate in the unlawful enter-  
7 prise, the single act itself must be such that you may  
8 reasonably infer from it such an intent, or there must  
9 be independent evidence tending to prove that a defendant  
10 had some knowledge of the broader conspiracy beyond his  
11 single act.

12 You may consider the quantity of heroin pur-  
13 chased, its cost and the circumstances under which the  
14 purchase was made as bearing on a defendant's intent to  
15 participate in the conspiracy. You may find from such  
16 facts that the conspirators at one end knew business  
17 could not stop with their buyers and that the conspirators  
18 at the other end knew it did not begin with their sellers.

19 Such facts may prove that each level of oper-  
20 ation depended upon the existence of the other, and the  
21 mutual interdependence of each level was fully understood  
22 and appreciated by the defendant.

23 I want to caution you, however, that mere  
24 association with one or more of the alleged conspirators  
25 does not make one a member of the conspiracy. Nor is



pgjw

knowledge without participation sufficient to make one a conspirator.

Now, it is not necessary that all conspirators have participated in the alleged conspiracy from its inception. A person who comes in at a later point with knowledge of the conspiracy's general operation, although not necessarily of all of its details, and who intentionally acts in a way to further the unlawful goals, becomes a member of the conspiracy and is legally responsible for all that may be or has been done in furtherance of the common criminal objective.

In determining whether or not a particular defendant was a member of a conspiracy, you may consider evidence of his own statements, and conduct of other alleged co-conspirators and the reasonable inferences to be drawn from such evidence, provided you find that such acts or statements of a co-conspirator were made during the course of the conspiracy and in aid of or in furtherance of its alleged purpose.

The alleged purpose of the conspiracy is that the defendants would buy, or sell, or receive, or conceal, or in any manner facilitate the transportation or concealment or sale of illegally imported heroin.

pgjw

2360

Since the purpose of the alleged conspiracy was to deal in heroin that was illegally imported, before you find that a defendant was a member of the conspiracy, you must be convinced beyond a reasonable doubt that he had knowledge of the heroin's illegal importation. Now the government has not introduced proof of each defendant's knowledge that the heroin was illegally imported. Instead, the government relies on an inference to show this knowledge which I will explain to you later on in this charge in connection with the substantive counts and which will apply equally as well to this conspiracy count.

If after considering each defendant separately you find that he is not a member of the conspiracy alleged in the indictment or is a member of some other conspiracy than the one alleged in the indictment, then you should acquit that particular defendant on Count 1.

Thus, it is possible for you to find that none of the defendants, or some of the defendants, or all of the defendants, on trial were members of the single conspiracy alleged in the indictment.

The indictment alleges that the conspiracy commenced on or about December 1st, 1969 and continued to April 30th, 1971.

The government, however, is not required to

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

pgjw

2361

prove that the alleged conspiracy existed over the whole course of time set out in the indictment. It is sufficient if you find that any time within that period all of the elements of the alleged conspiracy have been proven to your satisfaction beyond a reasonable doubt. The fact that the government may not have proved that the conspiracy was carried on as early or as long as the indictment alleges is not of any importance so far as the elements of the crime are concerned.

The next element that must be proved on this issue of the conspiracy is the requirement of an overt act. You may not find a defendant guilty of conspiracy unless you are convinced beyond a reasonable doubt that one of the conspirators knowingly committed one of the overt acts charged in the indictment. The government need not prove the commission of all of the overt acts charged in the indictment.

By the term "overt act" is meant any act committed by one of the conspirators in an effort to effect or accomplish some object or purpose of the conspiracy. It must be knowingly done in furtherance of some object or purpose of the conspiracy charged in the indictment. The overtact need not be criminal in nature if considered separately and apart from the



ngjw

2362

conspiracy. It may be as innocent as the act of a man walking across the street or using a telephone.

The overt acts referred to in this indictment are the following -- and I will read them to you:

1. In or about March, 1970, the defendant Raul Ortega-Alvarez met with co-conspirators Ramiro Gonzalez in Miami, Florida.

2. In or about March, 1970, the defendant Raul Ortega-Alvarez and co-conspirator Ramiro Gonzalez flew from Miami, Florida to Newark, New Jersey.

3. On or about March 12, 1970, the defendant Raul Ortega-Alvarez registered and stayed in the Saxony Motel, 330 Atlantic Avenue, Elizabeth, New Jersey.

4. On or about March 12, 1970, the defendant Raul Ortega-Alvarez and co-conspirator Ramiro Gonzalez met with the defendants Ciro Rodriguez-Calana and Francisca Ortega-Rodriguez at 38 Rankin Street, Elizabeth, New Jersey. I gather Francisca Ortega-Rodriguez is the lady whom we have been calling Mrs. Calana during the course of this trial.

5. On or about March 12, 1970, the defendants Jorge Infiesta and Luis Reyes-Padron received approximately one kilogram of heroin from the defendant Raul Ortega-Alvarez in an apartment at 666 West 162nd Street,

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

pgjw 2363

New York, New York.

6. On or about March 13, 1970, defendant Joaquin R. Prada and co-conspirators Ramiro Gonzalez and Miguel Rodriguez delivered approximately one kilogram of heroin at the CBC Gas Station, 2120 Amsterdam Avenue, New York, New York.

7. On or about March 13, 1970, the defendants Raul Ortega-Alvarez, Jorge Infiesta, and Luis Reyes-Padron met in an apartment at 666 West 162nd Street, New York, New York.

8. On or about March 16, 1970, the defendant Raul Ortega-Alvarez entered Luigi's Restaurant and Bar, 4100 Broadway, New York, New York.

9. On or about March 31st, 1970, the defendant Carlos Tapanes delivered approximately one kilogram of heroin in the parking lot of the Hicksville Diner, Old Country Road and South Oyster Bay Road, Hicksville, Long Island.

10. In or about March, 1970, the defendant Raul Ortega-Alvarez delivered approximately one kilogram of heroin to the defendant Luis Reyes-Padron at 38 Rankin Street, Elizabeth, New Jersey.

11. In or about March or April, 1970, the defendant Raul Ortega-Alvarez delivered approximately two

pgjw

2364

kilograms of heroin to the defendants Jorge Infiesta and Luis Reyes-Padron in an apartment at 666 West 162nd Street, New York, New York.

12. In or about March, 1970, co-conspirators Ramiro Gonzalez and Miguel Rodriguez met with the defendants Francisco Orlando Perez and Orlando Gil.

13. On or about March 24, 1970, the defendants Francisco Orlando Perez and Orlando Gil met at 572 West 173rd Street, New York, New York.

14. On or about March 24, 1970, the defendant Francisco Orlando Perez went to the Blue Mirror Bar, 3347 Broadway, New York, New York.

15. In or about March or April, 1970, the defendant Hector Echevarria received approximately one-half kilogram of heroin at 380 Audubon Avenue, New York, New York.

16. In or about March or April, 1970, co-conspirators Ramiro Gonzalez and Miguel Rodriguez had a conversation with the defendant Charles Busigo-Cifre in the vicinity of the CBC Gas Station, 2120 Amsterdam Avenue, New York, New York.

17. In or about March or April, 1970, co-conspirators Ramiro Gonzalez and Miguel Rodriguez delivered approximately one-half kilogram of heroin for the defendant



1 ngjw

2 Charles Busigo-Cifre to John Doe in the vicinity of the  
3 CDC Gas Station, 2120 Amsterdam Avenue, New York, New  
4 York.

5 18. In or about March or April, 1970, the  
6 defendant Joaquin R. Prada received a sum of money from  
7 the defendant Charles Busigo-Cifre.

8 19. In or about March or April, 1970, the  
9 defendants Charles Busigo-Cifre and Hector Echevarria  
10 met at 380 Audubon Avenue, New York, New York.

11 20. In or about March or April, 1970, co-  
12 conspirator Ramiro Gonzalez met with the defendant Domingo  
13 Del Cristo at the Gallo De Maron Bar, 3922 Broadway, New  
14 York, New York.

15 21. In or about March or April, 1970, the  
16 defendants Armando Garcia-Alvarez and John Doe, also  
17 known as Hugo El Americano, met at a bar in the Alamac  
18 Hotel, 2056 Broadway, New York, New York.

19 22. In or about March or April, 1970, the  
20 defendant Armando Garcia-Alvarez met with co-conspirator  
21 Ramiro Gonzalez in Miami, Florida.

22 Overt act 23 has been stricken so we will  
23 go on to the next one.

24 24. In or about March or April, 1970, the  
25 defendant Raul Ortega-Alvarez and co-conspirators Ramiro

1 ngjw

2366

2 Gonzalez and Miguel Rodriguez delivered one kilogram of  
3 heroin to the defendant Armando Garcia-Alvarez in the  
4 vicinity of 158th Street and Broadway, New York, New  
5 York.

6 25. In or about March or April, 1970, the  
7 defendant Jose Luis Sarria and John Doe, also known as  
8 Roberto, received approximately one and a half kilograms  
9 of heroin in Hudson County, New Jersey.

10 26. In or about March or April, 1970, co-  
11 conspirator Ramiro Gonzalez met with the defendant Jose  
12 Otero at the Gallo De Maron Bar, 3922 Broadway, New York,  
13 New York.

14 27. In or about March or April, 1970, the  
15 defendant Jose Otero received approximately one kilogram  
16 of heroin in the vicinity of the Cuba Bar, 1475 St. Nicholas  
17 Avenue, New York, New York.

18 28. In or about March or April, 1970, co-  
19 conspirators Ramiro Gonzalez and Miguel Rodriguez met  
20 with the defendant Cirillo Figueroa at the 005 Bar, 3865  
21 Broadway, New York, New York.

22 29. In or about March or April, 1970, co-  
23 conspirator Ramiro Gonzalez delivered approximately one  
24 kilogram of heroin for the defendant Cirillo Figueroa  
25 to John Doe in an apartment at 804 West 180th Street,

1 pgjw

2307

2 New York, New York.

3 30. In or about March or April, 1970, co-  
4 conspirator Miguel Rodriguez delivered approximately one  
5 kilogram of heroin for the defendant Cirillo Figueroa  
6 to the defendant Rigoberto Rosal-Rodriguez at the CBC  
7 Gas Station, 2120 Amsterdam Avenue, New York, New York.

8 Overt act 31 has been stricken.

9 32. In or about March or April, 1970, the  
10 defendant Joaquin R. Prada handed one and a half kilograms  
11 of heroin to the defendant Cirillo Figueroa in an apart-  
12 ment at 790 Riverside Drive, New York, New York.

13 33. In or about March or April, 1970, the  
14 defendant Jose Ramirez Rios received approximately one-  
15 half kilogram of heroin at the El Bayames Restaurant,  
16 1279 St. Nicholas Avenue, New York, New York.

17 34. In or about March or April, 1970, the  
18 defendant John Doe, also known as Roberto Lopez, received  
19 approximately one-half kilogram of heroin at the Gallo  
20 De Maron Bar, 3924 Broadway, New York, New York.

21 35. In or about March or April, 1970, the  
22 defendant Jose Angel Aguilera transported one-half kilo-  
23 gram of heroin from Elizabeth, New Jersey, to New York,  
24 New York.

25 The fact that a particular defendant is not



1 pgjw

2368

2 named in an overt act is of no importance because once  
3 you find that a conspiracy existed and that a defendant  
4 on trial was a member of a conspiracy, then he is bound  
5 by the acts done and statements made by any other member  
6 in furtherance of that conspiracy, even in the absence  
7 of such defendant.

8 Once you have determined that the offense has  
9 been established under the guidelines I have just given  
10 you, then the crime of conspiracy is complete as to every  
11 person found by you to have been knowingly and wilfully  
12 a member of the conspiracy.

13 Furthermore, at this point the success or  
14 failure of the conspiracy to accomplish the common object  
15 or purpose is immaterial.

16 At this point I am going to summarize the  
17 evidence which the parties claim supports their contentions  
18 as to the existence or non-existence of a conspiracy to  
19 distribute 45 kilograms of heroin. Of course, my recol-  
20 lection of the facts is in no sense binding on you. It  
21 is your recollection of the evidence as you heard it  
22 recited from the witness stand that controls.

23 The government contends that all of the defend-  
24 ants named in the indictment and more specifically those  
25 who are seated before you are guilty under Count 1.

110A

pgjw

2369

Noa testified that he picked up 60 kilos of heroin at JFK Airport and that he eventually delivered 55 of these kilos to Roberto Arenas. Arenas testified that Coronel sent Ortega from Miami to pick up this heroin at Arenas' apartment, and that Ortega came to his apartment and took two suitcases of heroin which Ortega said he was going to put in the apartment of his brother-in-law, Ciro Rodriguez-Calana, in Elizabeth, New Jersey. Later Arenas testified that Ortega agreed to bring 20 kilos back from New Jersey to give to Caramian. The next day, which Arenas testified was February 22nd, Ortega brought the 20 kilos to his apartment but Caramian took only ten kilos and Ortega retained the other ten.

The government contends that Ortega then set about selling the remaining 45 kilos by himself with the aid of Miguel Rodriguez and Ramiro Gonzalez.

Ramiro Gonzalez testified that Ortega asked him to go to New York to sell heroin and that they would be 50-50 partners. Gonzalez said that Ortega told him that the 45 kilos of heroin were pure and he gave him \$300 to buy a machine to seal plastic bags and to buy a plane ticket to Newark. According to Gonzalez, he and Ortega flew to Newark where they stayed at the Saxony Hotel.

111A

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

ngjw

2370

The next day, which was March 12th, he claims that they went to the home of Ortega's sister, Francisca Calana, at 38 Rankin Street in Elizabeth, where Ortega displayed two suitcases containing heroin to Gonzalez. Gonzalez says that Mr. and Mrs. Calana were in the house when they arrived, although Mrs. Calana was not present in the room when the suitcases were shown.

Ortega said that the remaining portions of the 45 kilos were in a nearby house. Rodriguez has also testified that on March 13th, Ortega showed him a suitcase of heroin at the Calana house and said that heroin was stashed at the home of another sister.

Coming back to March 12th, Gonzalez testified that he and Ortega went to Infiesta's house where Gonzalez says that Infiesta asked him to intercede with Ortega for a better price and quality. According to Gonzalez, Ortega had sold heroin to Infiesta several days before.

Later on that day Gonzalez brought Rodriguez to a bar to meet Ortega and discuss their business relationships. Gonzalez testified that he delivered the money which he and Rodriguez collected for the sale of this heroin to Ortega and that he accompanied Ortega when Ortega went to deliver money to Arenas. Arenas testified that he had many meetings with Ortega in which Ortega



112A

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

ngjw

2371

Brought him money amounting to about \$140,000.

On March 13th, Gonzalez says that he and Ortega drove to New York in a blue Corvair car which Ortega said belonged to his family. They took seven kilos of heroin to Infiesta's house where it was cut, and Infiesta bought a kilo at that time. Rodriguez has testified that heroin was also cut the following day with Ortega, Infiesta, Mr. Calana, and Rodriguez being present.

Gonzalez also testified that Ortega was present at the bar in Luigi's Restaurant two or three days later when he and Rodriguez were discussing the second sale to the agents Tumillo and Angioletti.

Rodriguez and the agents have testified that they witnessed this event.

Both Gonzalez and Rodriguez have testified to the sale of heroin by Ortega to Chavaco at 110th and Broadway. At one point these two witnesses have testified that Ortega urged them to get active and sell the heroin. Gonzalez said that Ortega was present at the Gallo De Maron Bar when the defendant Viera gave Gonzalez \$14,000 and that he was in the car when Gonzalez handed El Chino, Mr. Alvarez, two kilos from his car at 158th and Broadway.

Both Rodriguez and Gonzalez have testified that Ortega gave Rodriguez six and a half kilos at Calana's

pgjw

2372

house just before Ortega and Gonzalez left for Miami.

The government contends that defendant Busigo-Cifre was a member of this conspiracy because he purchased heroin from this 45 kilo shipment on two occasions. Cifre is alleged to have told Rodriguez that he wanted to buy from Rodriguez because he had become dissatisfied with buying from Prada who owned the CBC Gas Station, which formerly belonged to Cifre.

Rodriguez and Gonzalez testified that they sold half a kilo to Cifre for \$9,500 and that Cifre had Rodriguez deliver the heroin to a third person who worked for Cifre. Gonzalez also testified that there was a second sale of a half a kilo to Cifre.

114A

2373

pgd

Rodriguez and Gonzalez also testified that Cifre agreed to underwrite part of a purchase by defendant Echevarria after Rodriguez experienced difficulty collecting from Echevarria on a sale made to him. Thereafter Gonzalez said that he and Cifre went to Echevarria's supermarket and that Echevarria's wife produced a bag filled with money.

The government places Armando Alvarez in this conspiracy claiming that he purchased six kilos on four different occasions. Rodriguez testified to delivering one kilo to Alvarez at 180th Street and Fort Washington Avenue and a second delivery of one and a half kilos to this defendant at 158th Street and Broadway where he claims that he was accompanied by Ortega and Gonzalez. Gonzalez has testified that in addition to the deliveries by Rodriguez, Gonzalez delivered two kilos to this defendant at Viera's house on one occasion and one kilo on another.

Both witnesses have testified to payments having been made for these purchases.

As far as Jose Otero's involvement in this conspiracy is concerned, Rodriguez has testified that he met this defendant at a bar with Ortega and Gonzalez, that Ortega told Rodriguez to give this defendant one and a half kilos which Rodriguez delivered to Otero. Gonzalez places the conversation at the same bar without Ortega being present. He quotes



1 2pgd

2 Ortero as saying that he knew Gonzalez had heroin and he wanted  
3 some. Gonzalez says only one kilo was involved for which  
4 Otera paid \$17,000.

5 The government seeks to place the defendant  
6 Cirillo Figueroa in this conspiracy by testimony of Rodriguez  
7 and Gonzalez that they sold and delivered six and a half  
8 kilos of this heroin to Figueroa on six different occasions.

9 Rodriguez says that this defendant had been  
10 buying from Reyes and Infiesta but wanted to buy directly  
11 from Rodriguez and Gonzalez. Rodriguez detailed five  
12 deliveries of five and a half kilos and Gonzalez testifies  
13 to a sixth delivery of one kilo.

14 In addition, Rodriguez says Figueroa wanted to  
15 buy more but the sale could not be made because the 45 kilos  
16 had been sold. Figueroa is said to have paid \$19,000 for  
17 the first kilo.

18 Coming now to the question as to whether the  
19 defendant Jorge Infiesta was a member of the alleged con-  
20 spiracy, the testimony is to the effect that Ortega left  
21 quantities of heroin in Infiesta's apartment, that Infiesta  
22 helped cut it on one occasion, and that he bought one kilo  
23 from Ortega for himself and Reyes.

24 Gonzalez, in addition, says that he and Ortega  
25 sold two kilos to Infiesta and Reyes and that he collected

1 3pgd

2 money from Infiesta at Ortega's request.

3 Finally, there is a conversation in which Ortega  
4 is supposed to have told Gonzalez that he had sold three  
5 kilos to Infiesta and Reyes the day before Gonzalez first  
6 flew up to Newark.

7 Rodriguez and Gonzalez place Domingo Del Cristo  
8 in the conspiracy. Rodriguez has testified that this defend-  
9 ant came to him looking for Ortega because he wanted to buy  
10 heroin. Ortega told Rodriguez that he would speak to Del  
11 Cristo. Gonzalez has testified that there were two sales of  
12 one-half kilo each to Del Cristo. Both Rodriguez and  
13 Gonzalez have testified about difficulties in collecting  
14 money from this defendant. Gonzalez says that Lopez paid  
15 \$1,800 of Del Cristo's debt because they were partners.

16 The government also places Mr. and Mrs. Calana  
17 in this conspiracy. It claims that most of the heroin was  
18 kept in their home at 38 Rankin Street in Elizabeth, New  
19 Jersey pending sale. Both Rodriguez and Gonzalez state that  
20 both of these defendants were present at times when heroin  
21 was being cut and that they were to be paid for their help  
22 in stashing the heroin.

23 Gonzalez has testified that he gave money to both  
24 Calanas to be given to Ortega for the sale of the heroin.

25 In addition, Arenas has said that Mr. Calana

1 4pgd

2 was seated in a car with New Jersey license plates parked in  
3 front of his apartment, and that Ortega, carrying ten kilos  
4 of heroin, walked toward the car after leaving Arenas in  
5 front of his apartment building on February 22nd.

6 Gonzalez says that on several occasions Mr. Calana  
7 gave him heroin and that defendant Ortega had sent  
8 Mr. Calana to get additional heroin which had been left at  
9 a nearby place.

10 Finally, there is the testimony of Agent  
11 McEllyn who places the Corvair car registered in Mrs. Calana  
12 name, PFG 721, in the rear of Prada's gas station when the  
13 first sale of heroin was made to agents Angioletti and  
14 Tumillo by Gonzalez and Rodriguez on March 13th. Rodriguez  
15 has testified that Ortega gave him the keys to the car  
16 at Infiesta's home and told him the heroin was under the seat.

17 Coming now to the defendant Hugo Viera,  
18 Rodriguez and Gonzalez both speak of a meeting at the Alamac  
19 Bar, but they differ as to whether the sale of heroin was  
20 discussed at that time. Gonzalez says that subsequently a  
21 sale of one kilo for \$20,000 was made to this defendant who  
22 paid for it in two installments, although Gonzalez said he had  
23 trouble collecting the money. In addition, there is testi-  
24 mony that this defendant told Rodriguez that Alvarez wanted  
25 to buy heroin and that several deliveries of heroin for other



1 Spga

2 people were made at Viera's home.

3 Rodriguez has also testified that Alvarez told  
4 him that Alvarez' first purchase had been given to Viera.

5 Finally, Rodriguez says that Viera told him that  
6 he was tired of the fact that Gonzalez didn't trust him.

7 The testimony as to Jose Aguilera's possible  
8 involvement is that Ortega told him in Miami to come to New  
9 York to purchase heroin, that he wanted a half kilo, and that  
10 Aguilera told Rodriguez, who drove him back to New York from  
11 Rankin Street, that Ortega had sold him a half kilo.

12 Coming to the last defendant on trial here,  
13 Hector Echevarria, the government claims that he is a member  
14 of the conspiracy because of the testimony that he sought  
15 out the source from which to purchase the heroin, that he  
16 purchased a half kilo, that defendant Cifre had agreed to  
17 guarantee part-payment of the purchase price because Cifre  
18 and Echevarria had done narcotics business together before,  
19 and that Echevarria even introduced a potential customer to  
20 Rodriguez.

21 Defendants' contentions have been made perfectly  
22 clear by the summations of counsel. Simply stated, they are  
23 that you could not believe anything that Rodriguez and  
24 Gonzalez have testified to from the witness stand.

25 They point to the fact that each of these

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

6pgd

witnesses admitted that they hope that cooperation with the government in testifying in this case will be brought to the attention of the authorities. Rodriguez' application for a reduction of his ten-year sentence has been denied. Gonzalez' original sentence of ten years has been reduced to six years. The only road now open for a reduction of sentence for these two witnesses is by way of presidential clemency. As far as Arenas is concerned, he is awaiting sentence after being found guilty, by a jury, of narcotics violation. He also intends to plead guilty to a narcotics charge that does not call for a mandatory sentence.

Defendants point to the prior criminal records of these witnesses as evidence of their lack of credibility. Rodriguez is serving a ten-year sentence for violating the narcotics laws. In addition, he has admitted that he has engaged in stealing automobiles, running a numbers game, and various other illegal activities.

Gonzalez has been convicted of violating the federal firearms laws for which he has not as yet been sentenced because he was a fugitive, and he is presently serving a sentence of six years for violation of the narcotic laws.

Defendant Echevarria has produced three witnesses, two of whom have testified to alleged attempts by Rodriguez

1 7pgd

2 and Gonzalez to have them testify falsely regarding narcotic  
3 transactions as a means to avoid punishment for their  
4 alleged crimes.

5 The third has testified that he was merely  
6 advised to cooperate with the government. The first two  
7 also testified that Gonzalez and Rodriguez stated that they  
8 were giving false information to the agents regarding the  
9 case here on trial.

10 Defense counsel further point to the inconsis-  
11 tencies in the stories of Gonzalez and Rodriguez to show that  
12 a conspiracy never existed and that their respective clients  
13 could not have committed the substantive crimes which we  
14 will discuss in a moment. Let us take some of the examples  
15 which they have brought to your attention.

16 1. In the case of Otero, Gonzalez says he made  
17 a sale to this defendant of one kilo for \$17,000 while  
18 Rodriguez says he delivered one and a half kilos.

19 2. In the case of Del Cristo, Rodriguez says  
20 he never made a sale or delivery to this defendant, although  
21 he did collect some money which he turned over to Gonzalez  
22 in payment for some heroin. Gonzalez says that he made two  
23 sales of one-half kilo each to Del Cristo which were delivered  
24 by Rodriguez.

25 3. In the case of Alvarez, Rodriguez says that



1 8pgd

2 Gonzalez was in New York when he called this defendant in  
3 Miami demanding payment for previously delivered heroin.  
4 During this call, Alvarez is supposed to have told Gonzalez  
5 that he could get the money at Viera's apartment to which  
6 Gonzalez sent Rodriguez.

7 Gonzalez does not indicate that there were any  
8 problems in being paid for the first kilo. He has testified  
9 that Alvarez paid for it at the home of Gonzalez' aunt.

10 4. In the case of Viera, Rodriguez claims that  
11 there was no discussion of narcotics at the first meeting in  
12 the Alamac Bar, and that he never delivered heroin directly  
13 to Viera. Gonzalez says they made the deal for the sale of  
14 one kilo of heroin to Alvarez at that time at the Alamac Bar.  
15 He further states that in another transaction Rodriguez  
16 had delivered a kilo to Viera as a result of a telephone  
17 call from Alvarez' home in Miami.

18 5. In the case of Aguilera, Rodriguez says that  
19 one day he, Aguilera, Gonzalez, and Ortega, met at the 005  
20 Bar. Later that day, Rodriguez says he drove alone to  
21 Elizabeth, New Jersey, where he met Ortega and Aguilera and  
22 drove Aguilera home to New York. Gonzalez says the meeting  
23 took place at his aunt's house and that Ortega, Rodriguez,  
24 and Aguilera left together from there to go to New Jersey.

25 6. In the case of Echevarria, Rodriguez says

1 9pgd

2 that on March 16th or 17th he arranged to sell and did  
3 deliver one-half kilo of heroin to this defendant at the  
4 latter's supermarket at 184th Street and Audubon Avenue.  
5 Gonzalez says delivery was made the very same night after  
6 the sale to the undercover agents on March 13th.

7 7. As a final example, defendants claim that  
8 Gonzalez never could have seen Mrs. Calana at her home on  
9 the morning of March 12th or any other morning because the  
10 latest she ever reported in for work was 7:00 a.m. during  
11 the period in question.

12 I have tried very briefly to give you the con-  
13 tentions of the government and defendants in this case with  
14 regard to the charges contained in Count 1 of this indictment.  
15 Obviously I cannot review all of the evidence in this case,  
16 and my failure to mention any particular fact or set of  
17 facts does not mean that it is not to be considered by you  
18 in determining the guilt or innocence of each of the defend-  
19 ants. The evidence is fresh in your minds and you have  
20 listened attentively to the final pleas of counsel summarizing  
21 the evidence in support of their contentions.

22 If any reference by me to matters of evidence  
23 does not coincide with your recollection of the evidence,  
24 it is your recollection and not mine that is to control.

25 We turn now to the remaining nine counts of the

1 10pgd

2 indictment which you will have to consider. These are known  
3 as the substantive counts of the indictment and allege  
4 separate violations of Section 174 of the Federal Narcotics  
5 Act. Each of the counts which you will consider charges that  
6 on or about the dates alleged in the particular count the  
7 defendant named in that count unlawfully, knowingly and  
8 willfully did receive or conceal, or buy, or sell, or  
9 facilitate the transportation or concealment or sale of a  
10 certain amount of heroin, which heroin had been illegally  
11 imported into the United States knowing the same to have  
12 been imported into the United States contrary to law.

13 The first count as made more specific by the  
14 proof which you will consider is Count 2. It charges  
15 the defendants Raul Ortega and Ciro Rodriguez-Calana with  
16 facilitating the transportation of 20 kilograms of heroin  
17 on or about March 12, 1970. This refers to the incident  
18 when the 20 kilos were alleged to have been brought from  
19 Elizabeth, New Jersey to Arenas' apartment.

20 Count 3 of the indictment charges defendants  
21 Raul Ortega and Jorge Infiesta with violation of the law in  
22 the sale of one kilogram of heroin by Ortega to Infiesta  
23 between March 12th and March 14th, 1970.

24 Count 4 charges defendant Hector Echevarria with  
25 the purchase of one-half kilogram of heroin between March 14th



124A

2383

1 11pgd

2 and March 23rd.

3 Count 5 charges defendant Charles Busigo-Cifre  
4 with two purchases of one-half kilogram each of heroin, the  
5 first between March 14th and March 23rd, and the second  
6 between late March and early April.

7 Count 6 charges defendant Domingo Del Cristo  
8 with two purchases of heroin, one-half kilo each, the first  
9 between March 21st and March 23rd, and the second in late  
10 March to early April.

11 The next count which you will consider is Count  
12 8 which charges defendant Armando Alvarez with purchasing  
13 six kilograms of heroin in four different transactions. The  
14 first is alleged to have taken place between March 14th to  
15 March 23rd, and the other three in late March to early  
16 April.

17 The next count is Count 11 which charges that  
18 defendant Cirillo Figueroa purchased six and one-half kilos  
19 in six different transactions, the first two between  
20 March 14th and March 23rd, 1970, and a third in the second  
21 half of March, the fourth during late March and the last two  
22 in late March or early April.

23 Count 14 charges the defendant Jose Otero with  
24 the purchase of one kilogram of heroin in late March or  
25 early April.

1 12pgd

2 Finally, the last count which you must consider  
3 is Count 17 which charges defendant Jose Aguilera with the  
4 transportation of one-half kilogram of heroin in late March  
5 or early April.

6 In order for you to find a defendant guilty of  
7 any of the charges contained in these counts, you must be  
8 convinced as to each defendant and as to each count  
9 separately that the following elements have been proved  
10 beyond a reasonable doubt:

11 First, that on or about the dates alleged in  
12 each count the defendants named therein willfully and knowingly  
13 either bought or sold, or in any manner facilitated the trans-  
14 portation or sale of heroin.

15 Second, that the substance referred to in each  
16 of these counts is a narcotic drug, specifically that it is  
17 heroin.

18 Third, that the heroin was illegally imported  
19 into the United States.

20 Fourth, that the defendant named in the particular  
21 count you are considering knew that the heroin involved in  
22 that count had been illegally imported into the United  
23 States.

24 As far as the first element is concerned, you  
25 must find that the defendant knowingly and willfully either bought

126A

2385

13pgd

or sold or facilitated the transportation of heroin on the dates in question. The term "facilitate" is used in its ordinary sense. "Facilitate" means to make easy or less difficult, to aid or assist in furthering or advancing in a meaningful way one or more of the acts prohibited by law. The government is not required to prove that a defendant committed each of these prohibited acts. If you are convinced beyond a reasonable doubt that a defendant named in a particular count knowingly and willfully did any one of these prohibited acts, that is sufficient to satisfy the government's burden as to this first element.

What I said previously about the words "knowingly and willfully" in discussing the conspiracy count applies equally as well here.

Under the second element you must find beyond a reasonable doubt that the substance referred to in each of the nine substantive counts which you will consider is in fact heroin. Now, as far as each of these counts is concerned the government did not produce the heroin which it claims was transferred. However, just as with any other component of the crime, the existence of and dealing with narcotics may be proved by circumstantial evidence. There need be no sample placed before the jury, nor need there be testimony by chemists as long as the evidence furnishes ground for



1 14.

2 inferring that the material in question was heroin. On  
3 this point the government relies on the testimony of  
4 Rodriguez, Gonzalez, and Arenas that the substance with which  
5 they were dealing in these substantive counts was heroin.

6 In addition, you may consider the following  
7 circumstantial evidence in determining whether the substances  
8 referred to were in fact heroin: first, the secrecy and  
9 deviousness with which the alleged transactions were handled;  
10 second, the fact that the substance which the government's  
11 witnesses claim each defendant was dealing in was a white  
12 powder; third, the high prices the government contends were  
13 paid in cash for the substance; fourth, the alleged lack of  
14 complaint on the part of the purchasers of the substance in  
15 each count; and fifth, Rodriguez' testimony that at the  
16 cutting sessions masks were worn to prevent the participants  
17 from getting intoxicated from the heroin.

18 In addition, you may consider the testimony  
19 offered by the government as to the two kilogram quantity of  
20 heroin which it claims had been sold to federal undercover  
21 agents Tumillo and Angioletti by Rodriguez, Gonzalez and  
22 Prada from the shipment we are discussing. The government's  
23 chemist has testified that the substance contained in  
24 Exhibits 13 and 13D amounting to one kilo was 91 percent  
25 heroin and in Exhibits 14 and 14D amounting to one kilo was

B10

128A

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

15pgd

2387

80 percent heroin.

The third and fourth elements that the government must prove beyond a reasonable doubt are that the heroin involved in each count was illegally imported and that each defendant knew that it was illegally imported. In connection with my charge on the conspiracy count I told you that in order to find a defendant guilty on that count the government must prove that he knew that the heroin which was the object of that conspiracy was illegally imported. I also told you that I would discuss that element more fully in connection with the substantive counts. What I say here you will consider in connection with determining the guilt or innocence of a defendant under the conspiracy count as well as under the substantive counts.

The government has not offered direct evidence concerning the defendant's knowledge of illegal importation. In order to meet its burden on these elements, the government relies upon a law which permits a jury, whenever it finds that a person had knowing possession of heroin, to draw an inference that the heroin was illegally imported, and further that the person shown to be in possession knew that the heroin was illegally imported.

If the government demonstrates beyond a reasonable doubt that a defendant had possession of what is in fact

1 16pgd

2 heroin and there is no satisfactory explanation of this  
3 possession, you may infer, if you wish, that the heroin was  
4 illegally imported and that the defendant knew it was  
5 illegally imported.

6 As far as the basis for this inference is con-  
7 cerned, you should be informed that the United States  
8 Congress has determined that all of the heroin in this  
9 country is illegally imported. This finding is based on  
10 official studies showing, first, that no heroin is produced  
11 in the United States, and, second, that it is illegal to  
12 import either heroin or any product that heroin might be  
13 derived from.

14 From these facts it is therefore reasonable to  
15 infer that any heroin found here has been illegally imported.  
16 And it also is reasonable and rational to infer that anyone  
17 who has unexplained possession of, and deals in any quantity  
18 of, heroin would probably know of its source, or, at least  
19 he would know it was smuggled here from some place outside  
20 of the United States, unless he deliberately closed his eyes  
21 to the obvious.

22 While these findings furnish the basis upon  
23 which you may draw the inferences flowing from the possession  
24 of heroin, I repeat that these findings are not binding upon  
25 you nor are you compelled to draw the inferences once pos-



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

17pgd

2389

session is proved beyond a reasonable doubt.

Whether or not you draw the inferences to establish the elements of illegal importation and the defendant's knowledge thereof is up to you, based upon your own knowledge, common sense, and experience.

To draw this inference it is not required, however, that the government show that a defendant personally handled or touched the heroin. The law also provides that the inferences may be drawn if a defendant is shown to have had constructive possession of the heroin.

A defendant may be found to have constructive possession of heroin if you are convinced beyond a reasonable doubt that the heroin was in the possession of another person and that the defendant had the power to exercise control over that other person and the heroin and could control the heroin's movement or distribution. Thus, a defendant may be found to have constructive possession if you find that he had the power to set the price for a batch of heroin, or had the final say as to the means of transfer of heroin, or was able to assure delivery of heroin to a customer.

Cifre is the only defendant whose possession is claimed to be solely that of constructive possession. Some of the other defendants are charged with actual and constructive possession while others are charged solely with

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

18pgd  
actual possession.

If a particular count embraces more than one transaction, you must be convinced beyond a reasonable doubt that the preceding four elements have been satisfied as to each of the transactions which make up that count. For example, Count 5 charges the defendant Cifre with purchasing a half kilo of heroin on two different occasions for a total of one kilogram. In order to find this defendant guilty of the charge in Count 5, you must find that as to each of these two one-half kilo purchases the preceding four elements have been proved beyond a reasonable doubt. If you find that only one transaction was proved, then you should acquit the defendant on that count.

Similarly, Del Cristo is charged with two separate purchases of one-half kilo each; Alvarez with four purchases totalling six kilos; Figueroa with six purchases totalling six and a half kilos; the defendants Otero, Aguilera, and Echevarria are charged with one purchase each.

In determining the guilt or innocence of a defendant you must decide that question solely from the evidence you heard from the stand and the exhibits that have been placed before you.

The summations of counsel which you have heard are not to be considered as evidence but only as arguments to

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

19pgd

you as to what counsel feel you should find from the evidence.

In determining the issues in this case it is your recollection of the testimony that is to control and not that of counsel or of the Court.

There are, generally speaking, two types of evidence from which a jury may properly find the truth as to the facts of the case. One is direct evidence, such as the testimony of an eyewitness. The other is indirect or circumstantial evidence, which is the proof of a chain of circumstances pointing to the existence or non-existence of certain facts.

Circumstantial evidence is the proof of facts from which you may reasonably infer a material element of the crime.

(Continued on next page.)

B11 fol



Belt #11

1

pgjw 1

Ortega

2

Charge

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Let us take one simple example to illustrate what is meant by circumstantial evidence. We will assume that when you entered the courthouse this morning the sun was shining brightly outside and it was a clear day. There was no rain. Now assume that in this courtroom the blinds are drawn and the drapes are drawn so that you cannot look outside. Assume as you are sitting in this jury box, and despite the fact that it was dry when you entered the building, someone walks in with an umbrella dripping water followed in a short time by a man wearing a raincoat which is wet. If I ask you whether it is raining now you cannot say that you know it directly of your own observation. But certainly upon the combination of facts which I have stated to you, even though when you entered the building it was not raining outside, it would be reasonable and logical for you to conclude that it is raining now. That's about all there is to circumstantial evidence.

You may draw such inferences as reason and common sense lead you to draw from facts which you find to have been proven. Great care must be exercised when drawing inferences from circumstances proved in criminal cases and mere suspicions will not warrant a conviction.

However, no greater degree of certainty is

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

pgjw 2

required of circumstantial evidence than is required of direct evidence. It is not on any different or lower plane than direct evidence. The law simply requires that in either case you must be convinced beyond a reasonable doubt of the guilt of a defendant.

If, during the course of the trial, the Court sustained an objection by one counsel to a question asked by the examining counsel, you are to disregard the question and any alleged facts contained in the question and you may not speculate as to what the answer would have been.

If a question was asked and an answer given by the witness and I have then stricken the answer from the record, you are to disregard both the question and the answer in your deliberations.

In your search for the truth you must use plain everyday common sense. You must not be governed by sympathy, bias, or prejudice. You have seen the witnesses on the stand and observed their manner of giving testimony. When I refer to the witnesses, I, of course, include Mrs. Calana who has testified. How did the witnesses impress you? Did they appear to be testifying frankly, candidly, and fairly?

In determining what degree of credit you

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

ngjw 3  
should give a witness' testimony, you may consider his  
conduct, his manner of testifying, and his interest in  
the outcome of the trial. You should also consider his  
relationship to the government or the defendant, his  
bias or impartiality, and any motive he may have to  
testify falsely. It does not necessarily follow, of  
course, that because a person is interested in a result  
he is incapable of telling a truthful version of an  
occurrence.

The defendant Mrs. Calana has testified in  
this case. A defendant who wishes to testify is a com-  
petent witness and her testimony is to be judged in the  
same way as that of any other witness.

You have heard the testimony of Miguel Rodriguez,  
Ramiro Gonzalez, Manuel Noa, Roberto Arenas and Orlando  
Gil, who are each alleged to be co-conspirators of the  
defendants on trial. The testimony of alleged accomplices  
should be received with great caution and scrutinized  
with care. This does not mean that such testimony, if  
believed by you, is of any different or lesser quality  
than any other evidence.

It should be considered by you after giving  
it whatever weight you think it deserves along with all  
the other evidence in the case in determining whether



1 pgjw 4

2 the guilt of a defendant has been proved beyond a reason-  
3 able doubt. You may find a verdict of guilty solely on  
4 the uncorroborated testimony of an accomplice if you  
5 believe that testimony beyond a reasonable doubt.

6 If you believe that a witness wilfully testified  
7 falsely to any material fact, you may disregard his testi-  
8 mony altogether or you may accept that part of his  
9 testimony which you believe worthy of credence. What  
10 you accept or reject as credible evidence is for you  
11 to determine but you may not go outside the evidence to  
12 speculate as to the facts.

13 The quality of the testimony of the particular  
14 witnesses, regardless of who calls them, rather than the  
15 quantity of witnesses is the test to be used in arriving  
16 at your decision. There is no presumption that the  
17 witnesses for the government are more or less truthful  
18 or credible than the witnesses for the defendant.

19 Evidence that a witness has been convicted  
20 of a crime may only be considered by you in assessing  
21 his credibility as a witness and the weight you will  
22 give to his testimony.

23 You should consider a witness' entire testi-  
24 mony: his direct examination, his cross-examination,  
25 and his redirect examination. You should consider the

1 pgjw 5

2 strength or weakness of his recollection in the light of  
3 all the testimony and attendant circumstances in the case.

4 Inconsistencies or discrepancies in the testi-  
5 mony of a witness or between the testimony of different  
6 witnesses may or may not cause you to discredit such  
7 testimony. Two or more persons witnessing an incident  
8 or a transaction may see or hear it differently. Innocent  
9 misrecollection, like failure of recollection, is not  
10 an unusual experience. In weighing the effect of a dis-  
11 crepancy consider whether it pertains to a matter of  
12 importance or to an unimportant detail and whether the  
13 discrepancy results from innocent error or wilful false-  
14 hood.

15 You will recall that Rodriguez and Gonzalez  
16 were asked about statements which they made prior to  
17 trial and which it is claimed appear to be inconsistent with  
18 their testimony at this trial.

19 As you have found out during the course of  
20 the trial, much of this material was contained in reports  
21 made by the agents during the course of their investiga-  
22 tion of the crimes charged here. In addition, there  
23 was the recitation of events which Rodriguez dictated  
24 to Gomez in jail. None of this material was made under  
25 oath by either Rodriguez or Gonzalez.

pgjw 6

Insofar as this material is concerned, if the witness affirmed under oath here the truth of a prior statement, such statement may be considered by you both as affirmative proof of the facts contained in the statement and as bearing on the credibility of the witness.

If a witness admits that a prior statement was made by him but denies its truth from the witness stand, then you may consider that fact as bearing on the credibility of the witness.

If a witness has denied making a prior statement or cannot recall having made such a statement, then you may not consider it for any purpose. You must disregard the alleged statement completely.

Some question has been raised about the failure to call witnesses to testify on this trial. I point out to you that these persons are not under the control of either the government or the defendants. Either side could have subpoenaed any of them to appear as a witness if they were available. Therefore, as to those available to testify, you are free to draw whatever inference you wish as to the failure of either party to call such witnesses or you need not draw any inference at all.

Obviously the defendants who have not as yet been arrested are not available to either side and you



1 ngjw 7

2 may not speculate as to what their testimony might have  
3 been. You should utterly disregard their possible testi-  
4 mony in this case.

5 However, as I pointed out above, the defendant  
6 need not offer any proof to sustain his innocence and the  
7 burden is on the government to prove its case beyond a  
8 reasonable doubt.

9 There is no presumption against the government  
10 from its failure to call a witness if you find that his  
11 testimony would merely be cumulative or repetitious and  
12 of no greater value than witnesses who have testified  
13 on the trial.

14 You have heard testimony that exculpatory  
15 statements were allegedly made by the defendant Domingo  
16 Del Cristo when he was questioned by Miss Weiman in  
17 October of 1973 prior to his arraignment. At that time  
18 he stated that he was in the hospital during the relevant  
19 period of the charges you are considering. You have  
20 also heard testimony that the defendant Raul Ortega made  
21 exculpatory statements to a federal agent in 1971 to the  
22 effect that he had not been in New York for two years.

23 And exculpatory statement is one in which a  
24 person seeks to exonerate himself of having committed a  
25 crime. If you find that these statements were made and

140A

2399

1 pgjw 8  
2 were false and that they were made with the intention of  
3 diverting suspicion or misleading the agents, then you  
4 may consider these statements as indicating consciousness  
5 of guilt on the part of the defendant.

6 You will recall that certain evidence was  
7 admitted solely against a particular defendant. This means  
8 that you may consider such evidence only in determining  
9 the guilt or innocence of that defendant and no other  
10 defendant.

11 The exculpatory statements which I have just  
12 referred to were admitted solely against the declarants,  
13 defendants Del Cristo and Ortega respectively. The only  
14 other evidence limited to an individual defendant refers  
15 to the defendant Mrs. Calana. The evidence regarding  
16 her sister's telephone number and her son's school record  
17 were admitted solely on the question of her credibility.

18 You may call for any exhibits which you desire  
19 to see in conjunction with your deliberations. You may  
20 call for a reading of any portion of the official tran-  
21 script of the evidence or any portion of this charge.

22 You are instructed that the question of  
23 possible punishment of a defendant in the event of  
24 conviction is no concern of the jury and should not, in  
25 any sense, enter into or influence your deliberations.

1 pgjw 10

2 defendants. It is equally important to the government.

3 I am submitting it with complete confidence that  
4 you will comply with your oath as jurors and decide  
5 the case fairly and impartially, and without fear or  
6 favor.

7 I would suggest that at this point, if there  
8 are any exceptions with respect to the charge, we take  
9 them in the courtroom and excuse the jury rather than  
10 leave the jury here and go into the robing room, which  
11 is quite small.

12 (Jury excused)

13 THE COURT: Bring the jury back.

14 (Jury present)

15 THE COURT: The reason I called you back is  
16 to caution you. Please, while you sit in that jury room,  
17 do not discuss my charge or any resolution of the issues  
18 of fact until you are finally sent into the jury room.  
19 Please follow that instruction. There is to be no dis-  
20 cussion about the case or the issues to be determined by  
21 the jury.

22 (Jury excused)

23 THE COURT: Mr. Michelman?

24 MR. MICHELMAN: May it please the Court, I  
25 most respectfully except to your Honor's marshaling of



pgjw 9

The duty of imposing sentence in the event of conviction rests exclusively upon the Court. The function of the jury is to weigh the evidence in the case and determine the guilt or innocence of a defendant solely upon the basis of such evidence.

I have sought to avoid any comments which might suggest that I have personal views on the evidence or that I have any opinion as to the guilt or innocence of any of the defendants. You are not to assume that I have any such views or opinion. This charge is given to you solely to instruct you as to the law applicable to this case.

The actions of the judge during the trial in granting or denying motions or ruling on objections by counsel, or in statements to counsel, or in attempting to clearly set forth the law in these instructions, are not to be taken by you as any indication of any determination of the issues of fact. These matters, the actions of the Court, relate to procedure and law. You, the members of the jury, determine the facts.

There are twelve members of this jury and all of you must agree upon any verdict you reach as to any defendant on any count in the indictment.

This case is obviously an important one to the

QUESTION 5: Was the appellant placed in jeopardy twice for the same offense, contrary to the fifth amendment to the Constitution of the United States?

In the instant cause, this appellant was charged in a seventeen count indictment with substantive and conspiracy counts concerning narcotic violations which occurred in March through June of 1970. The claim of double jeopardy was based on his 1972 conviction before Judge EDELSTEIN (71 Cr. 1167). That conviction charged that appellant sold the same heroin on February 19th and March 25th, 1970. The facts as developed at the trial shows that the overlapping charges were derived from the same heroin.

The question of what constitutes the same offense for double jeopardy purposes has been treated as a highly technical one. See Twice in Jeopardy, 75 Yale L.J. 262 (1965). The traditional rule, has been that two indictments charging the same offenses if the evidence required to establish guilt under one indictment is sufficient to convict under the second. The so called "same evidence test" was first established in Morey vs. Commonwealth, 108 Mass. (12 Browne 433 (1891)). The test has been consistently applied by the Supreme Court, Ex Parte Nielson, 131 U.S. 176, 187-188 (1889); Carter vs. McClaughry, 183 U.S. 367, 395 (1402); Burton vs. United States, 202 U.S. 344 381 (1905); Gavieres vs. United States, 220 U.S. 338, 342 (1911); Ebeling vs. Morgan, 237 U.S. 625, 630-31 (1915), including application in multiple narcotics transactions. Blockburger vs. United States, 284 U.S. 299, 304 (1931) The test has also been incorporated in haec verba into the law of this circuit in United States vs. Kramer, 289 F. 2d 909, 913, (2nd Cir. 1961)

and has been applied in this district, United States vs. Farinas, 308 F. Supp. 459, 462 (S.D.N.Y. 1969).

It is now clear, that in this Circuit, the Morey doctrine will not be applied with rigid formality. Rather a "defendant may not be tried again on the same factual situation, where no significant additional fact need be proved, even though he be charged under a different statute." United States vs. Sabella, 272 F. 2d 206, 212 (2nd Cir. 1959).

"The Fifth Amendment guarantees that when the government has proceeded to judgment on a certain fact situation, there can be no further prosecution of that fact situation alone. The defendant may not later be tried again on the same fact situation, where no additional fact need be proved, even though he be charged under a different statute. He may not again be compelled to endure the ordeal of criminal prosecution and the stigma of conviction. These are the plain and well understood commands of the Fifth Amendment in forbidding double jeopardy. Here there was one sale of narcotics. The government should have but one opportunity to prosecute on that transaction." United States vs. Sabella, supra. at 212

#### CONCLUSION

FOR ALL THE ABOVE STATED REASONS THIS APPELLANT PRAYS  
THAT THIS COURT WILL REVERSE, REMAND, WITH INSTRUCTIONS  
TO DISMISS THE INDICTMENT.

Cirillo Figueroa  
Cirillo Figueroa, Appellant

STATE OF GEORGIA)  
: SS  
COUNTY OF FULTON)

SWORN TO AND SUBSCRIBED BEFORE ME THIS 16th DAY OF AUGUST, 1974.

D a Wells PAROLE OFFICER.

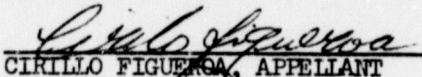
Parole Officer: Authorized by the  
July 7, 1955 to Administer Oaths (18 U.S.C.  
4004).



2000

CERTIFICATE OF SERVICE BY MAIL

I, the undersigned, hereby certify that I am the appellant in the attached Supplemental Brief on Appeal, and that I have this date mailed a copy of this Supplement to the office of the UNITED STATES ATTORNEY, for the Southern District of New York, New York, New York, by depositing it in the United States Mails, at the United States Penitentiary, Atlanta, Georgia on this \_\_\_\_\_ day of August, 1974.

  
CIRILLO FIGUEROA, APPELLANT